

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CR No.260 of 2018

Date of decision:17.01.2018

Rajesh

... Petitioner

Vs.

Murti and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Gulshan Nandwani, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The present petition has been filed against the impugned orders dated 09.11.2017 (Annexure P-2), whereby, the evidence of the petitioner, has been closed and 07.12.2017 (Annexure P-5) vide which application filed under Section 151 of Code of Civil Procedure for amending the order dated 09.11.2017, has been dismissed.

Learned counsel for the petitioner submitted that the petitioner had already paid the diet money of ₹600/- and other witnesses have not come forward, therefore, the Court below ought not to have closed the evidence by order and should have resorted to the provisions of Order 16 Rule 10(2) CPC.

I have heard learned counsel for the petitioner and appraised the paper book.

The application for depositing of the diet money has been shown to the Court which is of 26.05.2017 and the diet money had already been deposited on 26.09.2017. A perusal of order dated 26.09.2017 reveals that no list of witnesses as well as affidavit of plaintiff has been filed. A copy of the application pertains the stamp of same very Judge before whom the diet money of ₹600/- has been deposited which reads thus:-

“₹ 600/- as diet money be deposited at his own responsibility.

Meenakshi Yadav
CJ(JD)-cum-JMIC Rewari
26.09.2017 ”

The zimni order dated 26.09.2017 reads as under:-

“No evidence of plaintiff is present. List of witnesses as well as PF, affidavit etc, is also not filed. Adjournment has been requested. Heard. Since this is the first date of evidence of the petitioner. Adjournment is allowed. Now, to come upon 03.10.2017 for evidence of plaintiff. List of witnesses as well as affidavit of plaintiff be supplied in advance to the opposite party.

(Meenakshi Yadav)
JMJC-cum-CJ(JD) Rewari.
UID; HR-0342
26.09.2017.”

On conjoint reading of the aforementioned orders, it appears that the Court was oblivious of its own order regarding non-deposit. Resultantly, the impugned orders dated 09.11.2017 (Annexure P-2) and

07.12.2017 (Annexure P-5) are set aside. Effective opportunity is granted to the petitioner to examine the summoned witnesses, in accordance with law. The Court below will resort to the provisions of law, in case, witnesses are not produced, despite having been granted the opportunity, subject to payment of costs of ₹2500/-.

Revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

January 17, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No