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

**Civil Revision No.3559 of 2018
Date of Decision: 30.05.2018**

NARINDER SINGH

.....Petitioner

Vs

SHAKUNTLA DEVI AND ORS

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Naveen Batra, Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (Oral)

[1]. This revision petition has been preferred against the order dated 27.04.2018 passed by Civil Judge (Jr. Divn.) Garshankar vide which evidence of the defendants was closed by order of the Court.

[2]. Notice of motion was issued to the respondent for 29.05.2018.

[3]. As per report on *dasti* notice, contesting respondent No.1 has been duly served through Mr. Shashi Kumar, Advocate, who was appearing on her behalf in the trial Court.

[4]. From yesterday, the case was kept for today in order to await appearance of respondent No.1. However, none has

appeared despite service.

[5]. Notice of motion was issued on the premise that though 37 opportunities were credited for the evidence of defendants which was closed by order of the Court, but out of aforesaid total opportunities, number of opportunities were consumed for securing presence of summoned witness i.e. Nasib Singh Sadar Kanungo, who did not turn up despite due service or otherwise. From 18.08.2016 to 15.12.2017, the case was being adjourned on number of occasions in order to secure presence of the aforesaid witness.

[6]. Learned counsel for the petitioner contended that in the event of non-appearance of served witness, the Court was obligated to act in accordance with Order 16 Rule 10 CPC for securing the presence of served witness by coercive method. Having not done so, the petitioner was entitled to atleast one opportunity to conclude the evidence. Learned counsel further showed his willingness to pay adequate cost to the plaintiff/respondent No.1.

[7]. Learned counsel further submitted that after closing the evidence of the defendant/petitioner, the case was fixed for rebuttal evidence of the plaintiff, if any. No evidence in rebuttal has been led by the plaintiff so far.

[8]. Taking into consideration the facts and circumstances of the case, I deem it appropriate to allow the present revision petition. Consequently, impugned dated 27.04.2018 passed by Civil Judge (Jr. Divn.) Garshankar is hereby quashed only for the limited purpose of granting one effective opportunity to the petitioner to conclude his evidence, however subject to payment of cost of Rs.20,000/- to be paid to the plaintiff/respondent No.1 beforehand.

[8]. Payment of cost shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context.

May 30, 2018

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No