

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

**CR No.3640 of 2018
Date of Decision: 14.08.2018**

BALWINDER SINGH MALHI AND ANR

.....PETITIONERS

VERSUS

RAJINDER SINGH BATH

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Satnam Chauhan, Advocate
for the petitioner.

Mr. Divanshu Jain, Advocate
for the respondent.

RAJ MOHAN SINGH, J.(Oral)

[1]. On 29.05.2018, following order was passed by this
Court:-

“Learned counsel for the petitioners contends that while setting aside the order dated 05.09.2017 passed by Civil Judge (Junior Division), S.A.S. Nagar (Mohali), the High Court granted one more opportunity to the petitioners to conclude their evidence by producing all the witnesses under their responsibility by taking dasti summon, if necessary subject to payment of costs of Rs.5000/- payable to the opposite party.

Learned counsel further contends that in compliance of the aforesaid order, costs were paid and dasti summons were served upon the witnesses and process of the Court was utilized. Summoned and served witnesses did not appear and it was responsibility of the Court to secure their presence under Order 16 Rule 10 CPC.

Notice of motion for 14.08.2018.

In the meanwhile, trial Court is directed to adjourn the proceedings beyond the date fixed by this Court.”

[2]. It is a settled principle of law that in case served witnesses do not appear in the Court despite service, the Court is required to secure the presence of witnesses by way of coercive method in terms of Order 16 Rule 10 CPC.

[3]. In the instant case, one opportunity was granted by the High Court to the petitioners to conclude their evidence by producing all the witnesses on their own responsibility by taking *dasti* summons. That opportunity was granted subject to payment of costs of Rs.5000/-.

[4]. In compliance of aforesaid opportunity, process of the Court was utilized. Summons were duly served upon the witnesses. Served witnesses did not come forward. In such a situation, the Court was under legal obligation to serve the presence of the served witnesses by means of coercive method.

[5]. This revision petition is disposed of by reviving one

opportunity to the petitioners to serve the summoned witnesses again. In the event of their non-appearance, the Court shall act in accordance with law.

August 14, 2018
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No