

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.442 of 2016 (O&M)
Date of decision:04.12.2018

Jaswant Kaur

... Petitioner

Vs.

Harbans Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. K.S.Dadwal, Advocate
for the petitioner.

Mr. Sanjiv Pandit, Advocate
for the respondents.

AMIT RAWAL J. (Oral)

As per the order dated 28.04.2015, two witnesses of the defendant were duly served. On 01.04.2016, this Court, while issuing notice of motion passed the following order:-

“CM-5361-CII of 2016

Prayer made in the application is for placing on record zimini orders. Same are taken on record subject to all just exceptions.

CM stands disposed of.

CR-442 of 2016

Learned counsel for the petitioner mainly submitted that as per order dated 28.04.2015 two witnesses of the defendant i.e. Sarpanch, Gram Panchayat, Jalota and Clerk, Civil Supply, Garhdiwala were duly served but they failed to put in

appearance before the Court and as such, the Court passed order for issuance ofailable warrant of both these witnesses for 25.05.2015 and 27.08.2015 which remained unexecuted and the said witnesses failed to put in appearance despite issuance ofailable warrant and still the Court closed the defendant's evidence vide order dated 12.10.2015.

Notice of motion for 29.07.2016.

Meanwhile, pronouncement of final judgment shall remain stayed.”

I am of the view that trial Court ought to have adopted the procedure as provided under Order 16 Rule 12 of Code of Civil Procedure by issuing warrants and should not have closed the evidence of the petitioner-defendant.

The impugned order is set aside. Revision petition stands allowed and the petitioner-defendant is permitted to lead evidence in accordance with law. The trial Court is directed to comply with the aforementioned provisions of law for summoning the witnesses by taking appropriate measure.

(AMIT RAWAL)
JUDGE

December 04, 2018
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No