

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

C.R No. 75 of 2018

Date of Decision:- January 10, 2018

Sh. Ashok Kapoor

.... Petitioner

Versus

Ajay Kumar & Anr.

...Respondents

CORAM: HON'BLE MR.JUSTICE RAMENDRA JAIN

Present: Mr. Kunal Dawar, Advocate, for the petitioner.

RAMENDRA JAIN, J. (Oral)

Challenge in the present revision petition is to the order dated 15.12.2017 (Annexure P/1) passed by Vacation Judge/Civil Judge, Sr. Division, Faridabad, closing the evidence of the petitioner-plaintiff without following the procedure laid down under Order 16 Rule 10 of C.P.C.

In a suit of possession by way of specific performance of agreement to sell filed by the petitioner, the issues were framed on 11.04.2017. The petitioner in support of his case examined himself alongwith two more witnesses on 15.12.2017. 4th witness i.e. Clerk of DTP Office was present on the said date, but he did not bring the complete record, therefore, his statement could not be recorded.

Learned counsel for the petitioner contends that the witnesses mentioned at Sr. No. (i), (ii) and (iv) in the application for assessing the diet money of the witnesses, who are official witnesses remain to be examined. Their examination is very much necessary for effective adjudication of the real controversy between the parties. In case the petitioner is not allowed to do so, he would suffer an irreparable loss.

Considering other all facts and circumstances, but without commenting on the merits of the case, in the interest of justice the instant petition is allowed subject to cost of Rs.5,000/- to be deposited with Legal Aid Services, Faridabad, as the application for assessing the diet money was filed by the petitioner at a belated stage.

Resultantly, the impugned order dated 15.12.2017 of the trial Court is set aside. The trial Court is directed to summon the official witnesses mentioned at Sr. No. (i), (ii) and (iv) by taking effective steps of service upon them and record their statements.

The instant revision is disposed of without issuing notice to the respondent-defendant with a view to impart justice expeditiously to the parties and to save the huge expenses which may be incurred by him and also to avoid unnecessary delay in the adjudication of the matter. Still, if dissatisfied, the respondent may move this Court for recalling this order within a period of six weeks from today.

Revision is disposed of accordingly.

(RAMENDRA JAIN)
JUDGE

January 10, 2018
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No