

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CR-7632-2017

Date of decision : 11.07.2018

Hemant Vasisht

... Petitioner

Versus

Shri Krishan Kumar Vasisht and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr.Sanjay Vij, Advocate
for the petitioner.

AMOL RATTAN SINGH, J.(ORAL)

By this petition, the petitioner seeks the setting aside of the impugned order dated 10.10.2017, passed by learned Civil Judge (Junior Division), Gurgaon, whereby the evidence of the petitioner was closed.

As already recorded in the order dated 25.04.2018, respondent no.1 (plaintiff in the suit in question) stood served even then, with him not having appeared before this Court on that date, even through counsel.

Respondent no.2 refused to accept notice as per the report, and in any case, he being shown to be a proforma respondent, service upon him was dispensed with.

Respondent no.1 has also not appeared today, either in person or through counsel.

Mr.Vij, learned counsel for the petitioner, submits that four witnesses remain to be examined, one of them being the defendant himself, who has to be cross-examined by the plaintiff. Another witness is an Advocate who could not be examined as the official from the office of Sub Registrar who was to be examined prior to that, did not appear despite being

summoned.

Mr. Vij further submits that in fact even bailable warrants were ordered to be issued to procure the presence of the said witness, i.e. one Ashok from the office of Sub Registrar, Farukh Nagar, District Gurugram.

He next points to Annexure P-3 with this petition, wherein though in the first part of the said annexure, which is form C.D.-1, bailable warrants are shown to have been served upon the aforesaid official, but thereafter, at the end of the said form, it is shown that the bailable warrants were not actually available on file.

He submits that actually the bailable warrants, as per his instructions, were never issued by the Court.

As already noticed hereinabove, the respondents not having turned up to contest this petition despite service, it is now therefore disposed of with a direction to the Civil Judge (Sr.Div.), Gurgaon, i.e. the Court seized of the suit in question, to ensure the presence of the aforesaid official from the office of the Sub Registrar, Farukh Nagar, by coercive means if necessary, and thereafter to grant the petitioner two effective opportunities to examine the remaining witnesses, with it to be ensured that unnecessary adjournments for taking such effective opportunities are not sought by the petitioner, in which case of course that Court would close evidence again.

Thus, this petition is allowed and the impugned order set aside, with a direction issued as above.

(AMOL RATTAN SINGH)
JUDGE

July 11, 2018.

D.K.