

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

**CR No.4356 of 2016 (O&M)
Date of Decision: 1.4.2019**

Balbir Singh and another	Petitioners
Versus	
Mewa Singh and others	Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Rajender Goyal, Advocate
for the petitioners.

None for the respondent(s).

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioners have preferred this appeal against the orders dated 02.03.2016 and 11.05.2016 passed by Additional Civil Judge (Senior Division), Kaithal vide which evidence of the defendants was closed and application for recalling of the said order was also dismissed.

[2]. Perusal of the record would show that witnesses namely Superintendent of the office of Deputy Commissioner, Patiala and Registration Clerk of the office of Registrar, Nabha were sought to be summoned by depositing process fee and diet money under the orders of the Court. Witnesses were duly served and for their presences even coercive process was also initiated by the Court in terms of issuance of bailable warrants against them. Thereafter, evidence of the defendants was closed by order of the Court without adhering to the requirement

of Order 16 Rule 10 CPC for securing presence of served summoned witnesses by way of coercive method.

[3]. It is a settled principle of law that in case summoned witnesses are served with the process of the Court and in the event of their failure to appear in the Court, the Court is under legal obligation to secure their presence by way of coercive method. Even coercive method was evolved and the served witnesses were summoned by way of bailable warrants. Thereafter, only option left with the Court was to secure presence of the witnesses even by rigorous mechanism. By closing evidence of the defendants, no such premium over the illegality committed by the witnesses can be given.

[4]. In my considered opinion, one opportunity needs to be given to the defendants for leading their entire evidence by obligating the Court to secure the presence of summoned served witnesses by process of the Court in accordance with law.

[5]. In view of above, impugned orders are set aside. This revision petition is accordingly allowed. Normal consequences to follow.

April 01, 2019

Prince

Whether reasoned/speaking

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No