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

**Civil Revision No.4947 of 2016 (O&M)
Date of Decision: 16.05.2019**

SATWINDER SINGH

.....Petitioner

Vs

PRABHJOT KAUR AND ORS

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. S.K.S. Bedi, Advocate
for the petitioner.

None for respondents No.1 to 3.

Mr. Arjun Sharma, Advocate
for respondent No.4.

RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this revision petition against the order dated 08.07.2016 passed by the Civil Judge (Jr. Divn.) Chandigarh vide which evidence of the petitioner was closed by order of the Court.

[2]. At the time of issuance of notice of motion on 04.08.2016 following order was passed by this Court:-

“Learned counsel for the petitioner contends that plaintiff's evidence was closed by Court order dated 08.07.2016 on the ground that the same was the last opportunity and only

two witnesses were examined. Learned counsel further contends that for summoning of concerned official from State Bank of India, Sector 41 Chandigarh, an application was moved along with diet money for the witness, but the same could not be summoned for the reasons not born on record. Receipt dated 17.05.2016 (Annexure P-3) is available with the petitioner, but the said application is not available on record. Learned counsel prays for one more opportunity subject to payment of adequate cost.

Notice of motion for 19.08.2016.

Process Dasti as well.”

[3]. The grievance of the petitioner is that the evidence of the plaintiff/petitioner was closed on 08.07.2016 on the ground that it was the last opportunity and only two witnesses were examined. The petitioner relied upon the application moved by him seeking to invoke the process of the Court in summoning the official from the State Bank of India, Sector 41 Chandigarh by depositing diet money. Petitioner also relied upon receipt dated 17.05.2016 vide which an amount of Rs.100 was deposited by Sh. Ranjinder Sharma, Advocate. The application on which the endorsement qua deposit of diet money was made is not available on record.

[4]. On 18.09.2018 record of the trial Court was summoned by this Court. On 13.03.2019, the case was adjourned in order to ascertain the factum of issuance of receipt dated 17.05.2016 which was never noticed by the trial Court in the interlocutory

orders dated 25.05.2016, 30.05.2016 and 08.07.2016.

Thereafter last opportunity was granted on 26.03.2019 to the learned counsel for the petitioner to address the Court in respect of existence of any order for which receipt dated 17.05.2016 was issued by the Nazir.

[5]. Perusal of the record would show that there was no such application on record, nor the factum of any such application for deposit of diet money was noticed in the interlocutory orders dated 25.05.2016, 30.05.2016 and 08.07.2016. Perusal of alleged receipt itself shows that no case number and parties name were mentioned in the receipt. It remained mystery as to how the said receipt has been relied by the petitioner, particularly in the context of deposit of diet money for summoning official witness in this case without there being any application on record, nor any endorsement made by the Court allowing for deposit of the amount has come forth on any of the application or by way of separate interlocutory order on record.

[6]. Vide order dated 25.05.2016, the case was adjourned on the request of learned counsel for the plaintiff for examination of PW-1 as well as for remaining evidence with the endorsement of last opportunity. The case was adjourned for 30.05.2016. On the adjourned date, no PW was present. A

request was made and the same was accepted and it was made clear that no further opportunity shall be granted to the plaintiff to conclude his evidence. The case was adjourned for 08.07.2016 for examination of PW-1 as well as for remaining PWs at the risk and responsibility of the plaintiff himself, failing which the evidence was to be closed by order of the Court. On 08.07.2016, PW-1 and PW-2 were fully examined and the evidence of the plaintiff was closed by order of the Court.

[7]. At the time of issuance of notice of motion, learned counsel for the petitioner relied upon receipt dated 17.05.2016 by projecting the case that for summoning of official witness, the indulgence was granted by the trial Court by summoning the concerned official from State Bank of India with the process of the Court. In case of non-compliance by the official, his presence could have been secured by coercive method in terms of Order 16 Rule 10 CPC. The application on which the endorsement regarding payment of diet money was made could not be located on record.

[8]. The source from where the receipt in question was originated has not been proved on record, nor the receipt has advanced the case of the plaintiff in any manner for want of case number and names of the parties. Since no application is available on record, therefore, it cannot be said that the

indulgence was granted by the trial Court in summoning the concerned official from the State Bank of India by directing the plaintiff to deposit diet money for summoning of the witness. The case has already reached the stage of arguments. At this stage, no indulgence can be granted in favour of the petitioner. This revision petition is accordingly dismissed.

May 16, 2019

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Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No