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

CR No. 5133 of 2017

Date of Decision: 13.11.2019

Mohinder Singh

-Petitioner

Vs

Satnam Singh and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Kulwinder Singh, Advocate, for
Mr. S.S. Sarwara, Advocate,
for the petitioner.

Mr. Hardip Singh, Advocate,
for respondents No.1 to 4.

RAJ MOHAN SINGH, J. (ORAL)

Notice of motion was issued on the premise that even though in the order dated 26.05.2019, it was recorded that the petitioner had undertaken to conclude his entire evidence, but thereafter, process of the Court was issued to summon concerned Clerk from the office of Deputy Commissioner. Even necessary diet money and expenses for summoning of the aforesaid witness were allowed to be deposited by the Court.

Once the summoned witness despite service did not turn up, it was the obligation of the Court to secure his presence by way of coercive method under Order 16 Rule 10 CPC.

Learned counsel for respondents No.1 to 4 could not dispute the aforesaid legal position, however, submits that if one opportunity is to be granted to the petitioner, the same shall be subject to payment of adequate cost(s) to the respondents.

I have considered the submissions of learned counsel for both the parties.

In view of aforesaid factual position, I deem it appropriate to grant one opportunity to the petitioner to conclude his evidence by summoning official witness with the process of the Court. In the event of non-appearance of the summoned witness, the trial Court would be at liberty to resort to the provision of Order 16 Rule 10 CPC and in such eventuality, the trial Court would be obligated to grant the opportunity even beyond one opportunity in accordance with law, subject to payment of cost(s) of Rs.10,000/- to be paid to the respondents in equal proportions.

Payment of cost(s) shall be the condition precedent for granting indulgence by the trial Court.

Disposed of.

13.11.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

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|----|---------------------------|---|--------|
| 1. | Whether speaking/reasoned | : | Yes/No |
| 2. | Whether reportable | : | Yes/No |