

(101) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.6763 of 2016 (O&M)
Date of decision:10.01.2019

Darshan Lal and another.

.... Petitioners

Versus

Manmohan Singh and another.

..... Respondents

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Surinder Thakur, Advocate for
Mr. Amit Verma, Advocate for the petitioners.
Mr. Sandeep Bansal, Advocate for respondents.

B.S. WALIA, J. (ORAL)

[1] Challenge in the revision petition is to order dated 20.08.2016 passed by the learned Civil Judge (Jr. Div.), Hoshiarpur (Annexure P-3) closing the petitioners'/plaintiffs' evidence.

[2] Learned counsel for the petitioners contended that the petitioners/plaintiffs wanted to examine official witness from the office of the Tehsildar for which application was moved for permission to deposit diet money and that summons were issued to the witness but the witness failed to put in appearance and in the circumstances, the petitioners could not be prejudiced as it was incumbent upon the learned trial Court to secure the presence of the witness in accordance with the provisions of Order 16 Rule 10 CPC.

[3] Learned counsel for the petitioners had taken a number of opportunities to comply with the order of this Court dated 24.10.2016 as per which he was required to place on record copy of the application filed vide which the diet money was deposited to summon the witness as also the order passed on the said application by

the Court. Today, learned counsel has produced certified copy of the application as

well as order dated 08.08.2016 passed on the application by the learned Civil Judge (Jr. Div.), Hoshiarpur granting permission to deposit Rs.500/- as diet money *at own responsibility*. Certified copy of said application as well as order is taken on record as Mark 'A'.

[4] Learned counsel for the respondents contended that issues in the case were framed on 23.11.2011 where after the petitioners/plaintiffs availed numerous opportunities but failed to produce and conclude evidence despite last and final opportunity, besides permission to deposit Rs.500/- diet money was clearly *at own responsibility*, therefore on failure to produce the witness, the impugned order passed by the learned Civil Judge (Jr. Div.), Hoshiarpur declining the request for adjournment and closing the evidence of the petitioners/plaintiffs was immune from challenge.

[5] A perusal of the impugned order reveals that no evidence was led by the petitioners/plaintiffs despite last and final opportunity and that in the circumstances, the learned Civil Judge (Jr. Div.), Hoshiarpur rejected the request for adjournment by observing that issues in the case had been framed on 23.11.2011 where after the petitioners/plaintiffs had availed numerous opportunities but failed to produce and conclude evidence. It was in the aforementioned circumstances that the evidence of the petitioners/plaintiffs was closed by order.

[6] I have heard learned counsel for the parties. Issues in the case were framed on 23.11.2011 whereafter the petitioners/plaintiffs availed numerous opportunities but failed to produce and conclude evidence. In the circumstances, when the petitioners moved application for permission to deposit diet money for summoning witness the same was allowed on 08.08.2016 granting permission to deposit Rs.500/- as diet money but on own responsibility. In the circumstances, it was incumbent upon the petitioner to produce the witness on his own responsibility.

Having failed to do so and already a number of opportunities having been availed to

conclude evidence, the learned Civil Judge (Jr. Div.), Hoshiarpur vide order Annexure P-3 closed the petitioners’/plaintiffs’ evidence. In the circumstances no fault can be found with the impugned order.

[7] Accordingly, finding no merit in the revision petition, the same is dismissed.

(B.S. Walia)
Judge

10.01.2019
amit

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No