

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

CR No. 6872 of 2018

Date of Decision: 21.11.2019

Kamaljit Kaur

-Petitioner

Vs

Manvir Singh and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Surjeet Singh Sodhi, Advocate,
for the petitioner.
Mr. Navjot Singh, Advocate, and
Ms. Dhivya Jerath, Advocate,
for the respondents.

RAJ MOHAN SINGH, J. (ORAL)

Petitioner has challenged the order dated 25.09.2018 passed by Civil Judge (Junior Division), Garhshankar vide which evidence of the defendants-petitioner was closed by order of the Court.

Grievance of the petitioner is that the official witnesses were summoned and they were served with great difficulty.

The trial Court deferred the proceedings as the witnesses so summoned could not bring the summoned record from different departments for want of proper details thereof. The witnesses did not appear on the adjourned date i.e. 25.09.2018.

The trial Court instead of resorting to Order 16 Rule 10 CPC, proceeded to close the evidence of the defendants-petitioner by order on the premise that on 06.09.2018, defendants were given last and final opportunity to conclude their evidence.

In my opinion, the order is harsh enough to be set aside on legal principle.

Once the summoned/served official witnesses does not turn up despite service, it is the obligation of the trial Court to secure his/her presence by means of coercive method under Order 16 Rule 10 CPC.

Since, this exercise has not been done by the trial Court, therefore, I deem it appropriate to set aside the impugned order by giving direction to the trial Court to secure presence of summoned/served witnesses by adjourning the case for short intervals. If the summoned/served witnesses are present, they would be examined in accordance with law.

The trial Court shall make every endeavour to dispose of the suit at the earliest.

Disposed of.

21.11.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

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