

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

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**CR No. 2647 of 2019
Date of Decision : 21.5.2019**

Jangpal Singh

.....**Petitioner**

v.

M/s Bear Saab Cold Storage

.....**Respondent**

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present : Mr. S.S. Hira, Advocate, for the petitioner

KULDIP SINGH, J. (Oral)

Mr. Sarju Puri, Advocate has put in appearance and filed his power of attorney on behalf of the respondent.

Impugned in the present revision petition is order dated 1.2.2019 (Annexure P-3) passed by the learned Civil Judge (Junior Division), SBS Nagar, vide which an application to examine the defendant, aged about 72 years, by appointing local commissioner, was declined.

It is stated that defendant is 72 years of age and bed ridden and cannot come to the Court to depose. The said plea did not find favour before the trial Court on the ground that the medical evidence has not been produced to show that defendant is incapacitated for appearing in the Court.

I am of the view that the order passed by the trial Court is perverse and liable to be set aside. When it is stated that the defendant is 72 years of age, due to advanced age, the defendant must not be in a position to come to Court, therefore, there is no harm in examining him by local commissioner. As such, the impugned order dated 1.2.2019 is set aside. Order dated 19.3.2019

(Annexure P-7) is also set aside. The defendant is ordered to be examined by local commissioner for which the trial Court shall pass the necessary order for appointing local commissioner and fixing the remuneration and date of examination of the witness. Thereafter, the present petitioner shall be given an opportunity to produce the remaining witnesses at his own risk and responsibility.

Disposed of.

(KULDIP SINGH)
JUDGE

21.5.2019

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No