

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-2629-2019

Date of decision: 11.07.2019

Bimlesh

...Petitioner

V/s.

Manisha

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Amit Jain, Advocate for the petitioner.

Mr. Lekhraj Sharma, Advocate for the respondent.

RITU BAHRI, J. (Oral).

The petitioner has come up in revision against the order dated 10.04.2019 whereby evidence of the respondent has been closed.

Learned counsel for the petitioner has referred to the zimni order dated 06.03.2019 whereby summons issued to PW Clerk, Prem Baal, Junior High School, Laxmi Nagar, Yamana Par, Mathura (UP) was received back with the report that he was on leave and his presence was sought to be secured through bailable warrant in the sum of Rs.10,000/- returnable for 19.03.2019.

On 19.03.2019, the Additional Civil Judge was on leave and thereafter one last opportunity was granted to the respondent to produce the witness on 10.04.2019 subject to payment of Rs.300/- as costs and thereafter impugned order dated 10.04.2019 has been passed.

Learned counsel for the petitioner while referring to the Supreme Court judgment passed in ***Civil Appeal No. 1519 of 1968 titled as R.M. Seshadri V/s. G. Vasantha Pai*** 1969(1) SCC 27 has argued that in the

election petition, the Court has power to summon the witnesses suo motu if it is necessary to declare a candidate elected. Thereafter he has referred to the judgment passed in *RSA No. 976 of 1983* titled as *Gurcharan Singh V/s. Bal Kaur* 1992(2) R.R.R. 174 to the effect that if a witness is not produced by the respondent at his own responsibility, it does not dispense with the responsibility of the Court to secure the presence of the witnesses if they are evading service.

Keeping in view these two judgments, this revision is being allowed. The impugned order dated 10.04.2019 is being set aside and directions is given to the trial Court to secure the presence of this witness i.e. Clerk, Prem Baal, Junior High School, Laxmi Nagar, Yamana Par, Mathura (UP) as per the zimni order dated 06.03.2019 by issuingailable warrant of Rs. 10,000/- as per Order 16 Rule 12 CPC.

11.07.2019
Divyanshi

(RITU BAHRI)
JUDGE

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