

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 4920 of 2019
Date of decision: 20.08.2019

Durgawanti

...Petitioner

V/s.

Rekha and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Kunal Dawar, Advocate for the petitioner.

RITU BAHRI, J. (Oral).

Learned counsel for the petitioner refers to the application dated 28.08.2018 (Annexure P-3) for summoning three witnesses, which was allowed and diet money was to be deposited. However this amount was not deposited. Subsequently two suits were clubbed vide order dated 28.11.2018 (Annexure P-4). Thereafter an application was again made to summon the witnesses on 19.12.2018 (Annexure P-5). However in this application, inadvertently the name of third witness who is Clerk from the Rehabilitation Department, Sector-12 Faridabad could not be mentioned. The two witnesses came and the evidence of the plaintiff is closed on 05.02.2019 (Annexure P-6). When the mistake came into the knowledge of the present petitioner, he made an application (Annexure P-7) for leading additional evidence and on this application, impugned order dated 21.05.2019 (Annexure P-9) has been passed.

A perusal of the order dated 21.05.2019 (Annexure P-9) shows that evidence of the plaintiff was closed on 05.02.2019. The petitioner failed to deposit diet money within seven days. He was negligent and was not vigilant at the time when his evidence was called and his application was dismissed.

After going through Annexures P-3 to P-9, it transpires that inadvertently the petitioner did not deposit the diet money in the application (Annexure P-3) which was allowed to summon witnesses vide order dated 28.11.2018 (Annexure P-4). However when two suits were clubbed, inadvertently he did not mention the name of third witness who is Clerk from Rehabilitation Department and because of this mistake, the petitioner will suffer irreparable loss.

Hence, petition is allowed and order dated 21.05.2019 (Annexure P-9) is set aside and one effective opportunity is granted to the petitioner to summon third witness who is Clerk from Rehabilitation Department, Sector-12, Faridabad with records of allotment with respect to property bearing No.188 situated at Blcok-B, NH-1, NIT, Faridabad subject to deposit of Rs.5,000/- as costs with District Legal Services Authority, Fariadabad.

(RITU BAHRI)
JUDGE

20.08.2019
Divyanshi

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