

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

(208)

**CM no.3356-CII of 2019 in/and
CR No.3094 of 2018**

Date of Decision: 14.02.2019

Surender

...Petitioner

Vs.

Randhir Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Harkesh Manuja, Advocate, for the applicant-petitioner.
Mr. S.S. Kharb, Advocate, for the respondents.

Amol Rattan Singh, J (Oral)

CM no.3356-CII of 2019

In terms of the order dated 31.01.2019, by this application, the petitioner seeks to bring to the notice of this Court the purpose for which witnesses are now sought to be examined by the petitioner (before the trial court), with however his defence having been ordered to be closed vide the impugned order, the trial court stating therein that he had already availed of 11 opportunities to conclude such evidence.

The purpose for which each witness is sought to be examined is given in para no.3 of the application, which reads as follows:-

Witness no.1	To prove that compensation against acquisition of a part of the land claimed by plaintiff was given to defendant no.1.
Witness no.2	To show that against suit land loan was obtained by defendant no.1 and his son and it was repaid.
Witness no.3	To prove will date 26.01.1969.
Witness no.4	Loan obtained by defendant no.1 against part of suit land.
Witness no.5	Loan obtained by son and wife of defendant no.1 against the suit land.
Witness no.6	To prove mutation no.652 entered on the basis of judgment and decree dated 20.07.1984 passed in Civil Suit no.435/1984, titled as Attar Singh and others v. Chandgi and others.

The application is also supported by Annexure A-1, which is seen to be the application filed before the trial court seeking permission to summon the aforesaid witnesses.

Notice in the application to the counsel.

Mr. S.S. Kharb, Advocate, accepts notice, he having already an advance copy thereof, supplied by the learned counsel for the applicant-petitioner.

Mr. Kharb submits that he has no objection to the application being allowed.

The application is consequently allowed.

CR no.3094 of 2018

As regards the grievance of the petitioner against the impugned order, Mr. Kharb submits that other than the fact that sufficient numbers of opportunities were granted to the petitioner to produce the witnesses that he wished to.

Learned counsel for the petitioner reiterates that it was not the fault of the petitioner that they were not coming forth, they not being answerable to him; being employees of the organizations that had issued the documents in respect of which they were required to be examined.

It is to be again noticed that on the last date of hearing, Mr. Kharb had submitted that the documents sought to be proved by the petitioner by examination of the said witnesses, were not documents disputed by the respondent-plaintiff and consequently, those witnesses were not required to be examined.

Today however, looking at the list of documents in respect of which the witnesses are required, he submits that as regards the documents for

which witnesses no.1, 2, 4, 5 and 6 are required to be examined, those documents are not disputed, but as regards the will dated 26.01.1999, the said document is disputed.

Consequently, as regards witnesses no.1,2,4,5 and 6, they are held to be not necessary, as documents in respect of which they are required to be examined have been admitted to be correct by counsel for the respondent-plaintiff. However, as regards witness no.3, who is stated to be a Registration Clerk from the office of the Sub-Registrar, Panipat, who is sought to be examined with regard to the original record of a will bearing *Vasika* No.86/3, dated 26.01.1969, in my opinion the said witness should be allowed to be examined by the petitioner, by giving him one effective opportunity to do so.

Thus, if the petitioner is unable to produce the witness on his own, the witness being a Government official, upon the petitioner moving an application within 10 days from today before the trial court, seeking coercive steps to summon the witness to get him examined, the trial court would allow that application and direct the Registration Clerk to be present and take all necessary steps within a reasonable time for him to be examined.

However, the petitioner not having filed any such application earlier, this petition is allowed to the above extent only subject to payment of costs of Rs.10,000/- by the petitioner.

The trial court is further directed to conclude the trial preferably within a period of 6 months from today.

14.02.2019
vegarg/dinesh

(Amol Rattan Singh)
Judge

Whether speaking/reasoned : Yes
Whether reportable : No