

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2244 of 2018
Date of Order: 28.04.2022

Ujjagar Singh

..Petitioner

Versus

Amritpal Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gurcharan Dass, Advocate, for the petitioner.
Mr. B.S.Seemar, Advocate, for the respondents.

ANIL KSHETARPAL, J(Oral)

While assailing the correctness of the order passed by the Civil Judge (Jr. Divn.), Ludhiana, on 26.10.2017, the plaintiff has filed the present revision petition. The order dated 26.10.2017, reads as under:-

“Today the case was fixed for the entire plaintiff's evidence being last opportunity. No PW is present nor served. Perusal of the file reveals that the plaintiff has already availed numerous opportunities including last opportunity, but has failed to conclude its evidence. I find no justification for adjourning the matter further for plaintiff's evidence. As such, plaintiff's evidence is hereby closed by order. To come up on 09.11.2017, for evidence of the defendant.”

The learned counsel representing the petitioner contends that the plaintiff filed an application for summoning Sadar Kanungo of village Jarkhar with a direction to prepare an excerpt and also concerned clerk of the tehsil vide application dated 04.03.2017. On the direction of the order of the Court, their diet money and summoning charges were deposited. However,

the court never issued summons. He submits that, in fact, the trial Court passed the impugned order in ignorance of the application.

Per contra, the learned counsel representing the defendants has vehemently contended that the plaintiff never pressed this application and after availing 13 opportunities, the impugned order was passed.

The daily orders passed by the trial court have been produced. It is evident that the court after framing issues on 01.11.2016, adjourned the case to 25.11.2016 for plaintiff's evidence. On 25.11.2016, the case was adjourned to 03.01.2017. However, the Presiding Judge was on leave and the case was adjourned to 08.03.2017. The application in question was filed on 04.03.2017.

The court even permitted the petitioner to deposit the diet money etc. In these circumstances, the court should have either summoned the witnesses or directed the plaintiff to take dasti summons in order to secure the presence of the witnesses. The plaintiff wishes to examine official witnesses. For that purpose, he requires the help of the court.

As regard the argument of the learned counsel representing the respondents that the plaintiff never pressed the application, it may be noticed that the plaintiff not only filed the application but also deposited the amount. Thereafter, it was the responsibility of the court to either issue the summons itself or direct the plaintiff to get the summons served by taking dasti notices.

Keeping in view the aforesaid facts, the impugned order is set aside. The trial court is requested to grant an opportunity to the plaintiff to produce his entire evidence. The court shall issue summons to the witnesses while granting them sufficient time to prepare excerpt.

With all these observation, the revision petition is allowed.

All the pending miscellaneous applications, if any, are also disposed of.

April 28, 2022

(ANIL KSHETARPAL)
JUDGE

nt

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