

CR-5296-2022

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

CR-5296-2022

Date of Decision: November 23, 2022

Rajesh Jain

...Petitioner

Versus

Harcharan Dass and others

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Nafes Ahmad, Advocate for
Mr. Mohd. Jameel, Advocate for the petitioner.

DEEPAK GUPTA, J.(Oral)

By way of impugned order dated 28.10.2022 (Annexure P2),
Ld. Trial Court has closed the evidence of the plaintiff-petitioner by
Court order, despite the fact that summons issued to a witness had been
received back duly served and the witness had not appeared.

2. It is contended by Ld. counsel that Trial Court violated the
provisions of Order 16 Rule 10 CPC because once the plaintiff-petitioner
had deposited the diet money & other expenses for summoning of the
witness and the witness had been duly served, it was for the Court to
procure the presence of the witness.

3. Although, it is conceded by the counsel that various
opportunities have already been availed by the plaintiff-petitioner for his
evidence but it is contended that witness in question is quiet material
being attesting witness to the agreement to sell. He further submits that
only one opportunity is required for examining the witness.

4. Heard.

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5. Impugned order reveals that summoned witness was duly served as per summons received in the court but had not appeared. In the circumstances, trial court was required to procure the presence of the witness by adopting coercive modes as per law.

6. Consequently, the impugned order is hereby set aside. A direction is given to Ld. Trial Court to procure the presence of the concerned witness by adopting coercive methods, in accordance with law. Only one opportunity shall be provided to the plaintiff-petitioner to conclude the evidence.

6. This order has been passed without serving notice to the respondents in order to avoid any delay in the matter. However, if the respondents-defendants are aggrieved by this order, they can approach this Court.

7. Revision is allowed.

November 23, 2022
sarita

(DEEPAK GUPTA)
JUDGE

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