

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

CR-4417-2022 (O&M)

Date of Decision: February 14, 2023

Raj Kumar

...Petitioner

AND

Narender and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Sandeep Singh Sangwan, Advocate
for the petitioner.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 11.05.2022 (Annexure P-3) passed by learned Court below, whereby, the evidence of the petitioner-plaintiff has been closed by order.

From the paperbook and the zimini orders placed on record, it is evident that firstly, the case was fixed for recording of the evidence of the PWs vide order dated 07.08.2015 and it was fixed for 17.09.2015, but however, no PW was examined on various dates till 10.02.2016. Seemingly, the original file was not available and on query by the Court, it was disclosed that the case had been transferred from Gurgaon to Pataudi and on this account, original file had not been received. For the purpose of receipt of the file, the case remained pending till 04.07.2018. On that very day, when the file was received, the case was fixed for evidence of the plaintiff

for 08.08.2018. Again, for this purpose, it remained pending for several dates and last opportunities were also granted time and again, as evident from the zimini orders.

However, it is now submitted by learned counsel for the petitioner that an application for summoning of the witnesses of the petitioner-plaintiff was filed on 22.01.2020, which was allowed by the Court below. The aforesaid application is placed on record as Annexure P-2 and it contains the recital about allowing of the application by the Court below. However, the zimini order, which is placed on record, reveals about the application to have been taken on record on 22.01.2020. Even, recital shows about the same to have been allowed for examining the witnesses.

However, perusal of the zimini orders passed, thereafter, reveals about no observation, having made regarding summoning of the said witness, either by the Court or production of the same by the petitioner-plaintiff, at his own responsibility. Abruptly, the evidence has been closed.

No doubt, as observed aforesaid, there is delay on the part of the petitioner-plaintiff for summoning of the witnesses, but once the application has been allowed, the same should be taken to a logical end by the Court concerned. An observation ought to be made with regard to the summoning of the said witness. However, zimini orders are totally silent relating to the same.

In the given circumstances, the present revision petition is accepted and the impugned order is set aside. Only one opportunity is granted to the petitioner-plaintiff to conclude entire evidence, at his own

responsibility, subject to deposit of costs of Rs.15,000/- before District Legal Services Authority, concerned, within a period of three weeks from today onwards.

Since, no notice has been issued to the respondents, it is open for them to approach this Court, if they have any grievance.

February 14, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No