

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CR-5925 of 2023(O&M)  
Date of Decision: 06.10.2023

M/s Kishan Chand Sanjeev Kumar

...Petitioner

Versus

Bharat Foods & Agro Products

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Hardik Ahluwalia, Advocate  
For the petitioner.

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**KARAMJIT SINGH, J.**

1. The present revision petition has been filed by the petitioner/ plaintiff against the order dated 18.09.2023 (Annexure P-5) passed by the Court of learned Additional Civil Judge (Sr. Divn.), Rajpura (Patiala), whereby the evidence of the plaintiff has been closed by order in civil suit titled M/s Kishan Chand Sanjeev Kumar, New Grain Market, Rajpura Vs. Bharat Foods and Agro Products.

2. The counsel for the petitioner submits that the petitioner intended to summon ASI Nathi Ram of Police Post Basantpura, Tehsil Rajpura along with the concerned record as a witness and for that purpose he filed an application which was allowed by the trial Court and the petitioner also deposited the diet money of the said witness on 01.08.2023. Despite this the evidence of the petitioner was closed by order by the learned trial Court on 18.09.2023 without making any efforts to summon the aforesaid official witness. The counsel for the petitioner further submits that the impugned order being illegal, deserves to be set aside.

3. I have considered the submissions made by counsel for the petitioner.

4. Admittedly, in the present case the petitioner deposited the diet money and other expenses to summon some police official along with record. The presence of the said witness cannot be secured without the assistance of the Court. It is the duty of the learned trial Court to find out whether the process issued by it is duly served or otherwise is to take recourse to Section 30 and Section 32 CPC which gives a right to the trial Court to summon a witness or to invoke Order 16 Rules 10 and 12 CPC which provide a procedure to secure presence of the witness. In the instant case, the trial Court passed the impugned order without following the aforesaid provisions of law and thus committed material irregularity.

5. In light of the above, the impugned order is hereby set aside. The trial Court is directed to ensure the issuance of process against summoned witness namely ASI Nathi Ram of Police Post Basantpura, Tehsil Rajpura in accordance with law. The trial Court is also directed to grant two effective opportunities to the petitioner to examine the said witness.

6. Keeping in view the nature of order being passed, no notice is required to be issued to the respondent. However, if he feels dis-satisfied with this order, he may move an application to recall the same.

**(KARAMJIT SINGH )**  
**JUDGE**

**06.10.2023**  
Jiten

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