

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-6933-2023
Date of Decision:-17.11.2023

KAMALJIT KAUR ALIAS KANWALJIT KAUR

... Petitioner(s)

Versus

ARVINDER SINGH AND ANOTHER

... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Amit Dhawan, Advocate
for the petitioner.

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KARAMJIT SINGH, J. (Oral)

1. The present revision petition has been filed by the petitioner/plaintiff seeking quashing of impugned order dated 20.10.2023 (Annexure P-4) passed by the Court of Civil Judge (Junior Division), Jalandhar, whereby the remaining evidence of the plaintiff except for her own testimony was closed by order in civil suit No.827 of 2018 titled Kamaljit Kaur @ Kanwaljit Kaur vs. Arvinder Singh and Ors.
2. The counsel for the petitioner submits that the petitioner is a widow and during trial she filed an application to summon 5 witnesses and for that purpose she deposited diet-money and process charges vide (Annexure P-2). That in the meantime, the petitioner suffered fracture

of right foot but inspite this she was able to examine 3 of the aforesaid summoned witnesses. However, remaining two summoned witnesses still remains to be examined along with some other witnesses. The counsel for the petitioner further submits that as the petitioner became bed-ridden, permission was taken from the Court and thereafter, the petitioner was examined at her house with the aid of Local Commissioner as is evident from Annexure P-4 and subsequent order dated 31.10.2023 passed by the trial Court, which are available on the record. It is further submitted that the trial Court pass the impugned order without making any efforts to procure the presence of two of the summoned witnesses. The counsel for the petitioner further made prayer that proper and effective opportunity be granted to the petitioner by the trial Court to conclude her evidence.

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 5 witnesses, out of which 2 still remain to be examined. As has been stated by the counsel for the petitioner, the presence of said witnesses could not be secured without the assistance of Court by the petitioner, who is a widow and is otherwise bed-ridden as she suffered fracture of right foot. It is the duty of the trial Court to ascertain as to whether the process issued by it is duly served or otherwise is to take recourse to provisions of Sections 30 & 32 of CPC, which gives a right to the trial Court to summon the concerned witness. The trial Court could also invoke Order 16 Rules 10 & 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, even if while allowing the application (Annexure P-2) for summoning of witnesses, the learned trial Court directed issuance of *Dasti* process for service at her own responsibility by petitioner.

5. The rules of procedure are meant to help the Court to do complete justice. The trial Court would be able to adjudicate the subject matter in dispute in a proper manner, if the parties are permitted and given effective opportunity to lead evidence. The evidence, which the petitioner failed to adduce before passing of the impugned order appears to be necessary for just decision of the case. This Court is of the considered opinion that the learned trial Court committed material irregularity while passing the impugned order.
6. In the light of the above, the impugned order is set-aside and the trial Court is directed to ensure the issuance of process of 2 unserved summoned witnesses namely Tejinder Pal Singh, Advocate and Harinder Singh, in accordance with law. The trial Court is also directed to grant two effective opportunities to the petitioner to examine the said two witnesses and any other witness necessary for proper adjudication of the case.
7. The present revision petition is allowed in the aforesaid terms.
8. Keeping in view the circumstances mentioned above, this petition is being disposed of without issuing any notice to the opposite party. However, liberty is granted to the respondent(s) that if they feel

dissatisfied with this order, they may move an application to recall the same.

17.11.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?

Yes / No

Whether reportable?

Yes / No