



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

Sr. No.201

CR-7146-2018

Date of Decision: 23.07.2024

MANJIT SINGH

....Petitioner

Versus

SHISH PAL AND ANOTHER

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. S.S. Momi, Advocate
for the petitioner.

None for the respondents.

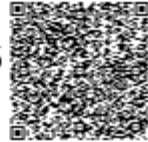
ARCHANA PURI, J. (Oral)

Challenge in the present revision petition is to the order dated 29.08.2018, passed by learned Trial Court, whereby the evidence of the petitioner (who is plaintiff before learned Trial Court), was closed by order.

In pursuance of the notice issued, the respondents had earlier made appearance through counsel and subsequently, none has pursued the revision petition on their behalf. As such, the respondents are proceeded against *ex parte*.

Learned counsel for the petitioner heard.

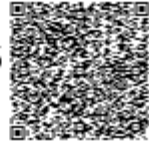
The facts germane to be noticed, as disclosed by learned counsel for the petitioner are that, the issues were framed in the case by learned Trial Court on 04.11.2015 and the case was fixed for 11.01.2016, for



evidence of the petitioner/plaintiff. Thereupon, even the application for summoning of witnesses of the plaintiff and deposit of the diet money was filed, copy whereof is Annexure P-2. Panchayat Secretary of Village Bagthala along with the record, as detailed in the application was summoned for 12.09.2017.

Also, from the various zimini orders placed on record, it is evident that PW Ganesh Dutt, Panchayat Secretary, Kurukshetra, had appeared on 12.09.2017, but he had not brought the complete record. In these circumstances, learned Trial Court had directed the said witness to produce the complete record on the next date of hearing i.e. 06.11.2017. In the order dated 06.11.2017, no observation was made by learned Trial Court, with regard to presence/non-presence of the said Panchayat Secretary and the case was adjourned further for 08.01.2018. On the subsequent date, it was observed by learned Trial Court that the summon sent for service of Panchayat Secretary, as well as other three witnesses, were received back unserved and they were ordered to be summoned again for the next date of hearing i.e. 16.04.2018. On 16.04.2018, summons were received back and the aforesaid witnesses were further ordered to be summoned for 23.04.2018.

On the next date i.e. 23.04.2018, again the summons were not received back and the witnesses, Panchayat Secretary of village Baghtala, Joginder Singh, Inderjeet Singh and concerned Clerk from the office of S.P. Kurukshetra, were ordered to be summoned again for 07.05.2018. Thereafter, for two dates, no proceedings were conducted, as the Presiding Officer was availing the joining time and then, the file was taken up on 29.08.2018, when the impugned order was passed.



From the aforesaid fact situation, it is evident that even though, learned Trial Court had ordered about summoning of the witnesses and one witness, Ganesh Dutt, Panchayat Secretary, had made appearance before the Court, but he was bound down for the next date, on account of record having not produced. Learned Trial Court, though, continued with the process of summoning of the witnesses, as per the list already furnished by the petitioner/plaintiff, but, thereafter abruptly discontinued the process. No coercive step was taken to secure the presence of Ganesh Dutt, Panchayat Secretary, who had initially made appearance before the Court.

Once the process for summoning of witnesses has been initiated by learned Trial Court, it is the duty of the Court concerned to take it to the logical end to secure the presence of the witness summoned and production of the record by said witness. However, learned Trial Court has not followed the due process and had abruptly discarded the process of summoning of the witnesses and had closed the evidence of the petitioner/plaintiff, by order.

In the given circumstances, the petitioner, as such, cannot be punished for the mid-way process of summoning of witness, having discarded by learned Trial Court. As such, the impugned order warrants interference and hence, the instant revision petition is hereby allowed and the impugned order is set aside.

On query by the Court, it is disclosed by learned counsel for the petitioner that the next date fixed before learned Trial Court is 21.09.2024. Since it is a long date, the petitioner is hereby requested to make appearance before learned Trial Court and file an application along with copy of this order, within a period of fifteen days. Subject to appearance of the



petitioner/plaintiff and filing of application, the Court concerned is at liberty to prepone the date of hearing of the case and fix the same again for summoning of witnesses and conduct further proceedings.

In view of the aforesaid terms, the revision petition stands disposed of.

23.07.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No