



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

Sr. No.137

**CR-1244-2024 (O&M)
Date of Decision: 12.07.2024**

DEEPIKA SHARMA

....Petitioner

Versus

OM PARKASH

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. J.S. Saneta, Advocate
for the petitioner.

ARCHANA PURI, J. (Oral)

Challenge in the present revision petition is to the order dated 01.12.2023 (Annexure P-23), passed by learned Trial Court, whereby, the evidence of the petitioner (who is plaintiff before learned Trial Court), was closed by order.

Heard learned counsel for the petitioner.

Perusal of the paperbook reveals that during the pendency of the suit, after completion of the pleadings, on 29.05.2019 issues were framed by learned Trial Court and also liberty was given to the petitioner/plaintiff to file list of witnesses, thereby giving detail of the witnesses intended to be summoned and the case was adjourned further for 09.08.2019.

However, it is submitted by learned counsel for the petitioner that an application for summoning of witnesses was in fact filed, copy whereof is Annexure P-7, on the basis whereof, out of four witnesses, three witnesses were ordered to be served throughailable warrants, as they had not made appearance, despite service having effected upon them. This is so



evident from the order dated 24.02.2020. Furthermore, on account of prevalent Covid situation, the case was further adjourned for multiple dates, for the same purpose. Then, again on 18.01.2021, summons were ordered to be issued to the witnesses, Satish Kumar Saini, Stamp Vendor, Baljit Singh, Notary and Bharat Bhushan, for 24.02.2020. On the next date again, for the same purpose, summons were ordered to be issued. On 18.08.2021, the petitioner/plaintiff was present and her cross-examination was deferred for 06.12.2021. For the same purpose, it remained pending for several dates and ultimately, the cross-examination of PW-1 was completed on 29.04.2023. In the meanwhile, no other witness was summoned by the Court. Lastly, on 26.10.2023, last and final opportunity was granted for adducing evidence, at own responsibility and also a direction was given that in case the petitioner/plaintiff fails to conclude the evidence on the next date of hearing i.e. 01.12.2023, the same shall be deemed to be closed by order. On the subsequent date i.e. 01.12.2023, the plaintiff's evidence was closed by order, considering the fact of the plaintiff having availed 15 effective opportunities to conclude the evidence.

From perusal of the zimini orders, it is evident that the process of summoning of witnesses, in pursuance of the application filed at the instance of the petitioner/plaintiff, was started by learned Trial Court and bailable warrants were issued. Again ordinary summons were sent and thereafter, abruptly, the process was discontinued by the concerned Court. Subsequently, an opportunity was given to lead evidence, at own responsibility.

Considering the same, it is pertinent to mention that once the process has been initiated for summoning of the witnesses, it is the duty of



the Court concerned, to ensure that the process is taken to its logical conclusion, to procure the service of the witnesses. In the given circumstances, the Court concerned shall refrain from ordering about witnesses, especially the summoned witnesses, to be produced at own responsibility, more particularly when compliance of the order with regard to the application having filed is made and the diet money is deposited.

Considering the aforesaid fact situation, the impugned order is set aside and learned Trial Court is hereby directed to continue the process of summoning of the witnesses and examine them, after securing their presence and proceed further.

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

12.07.2024
Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No