

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

227

CR-1761-2023 (O&M)
Date of decision : 18.03.2024

Sachin ... Petitioner(s)
Versus
Kuldeep and others ...Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Atul Yadav, Advocate for the petitioner.

Mr. Punit Jain, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been preferred challenging the impugned orders dated 13.09.2021 (Annexure P-3) whereby the evidence of the petitioner was closed and order dated 17.11.2022 (Annexure P-6) whereby the application filed by the petitioner for additional evidence has been dismissed.
2. Learned counsel for the petitioner would contend that Dr. Ajay Sheoran is working with PGIMS, Rohtak and was to come and prove the disability certificate. On numerous dates bailable warrants were issued for securing the presence of Dr. Ajay Sheoran. Thereafter, due to Covid-19, the functioning of the Court was stalled and the matter was adjourned from time to time. On 08.04.2021 yet again fresh bailable warrants were issued for securing the presence of Dr. Ajay Sheoran. Thereafter, there is no reference to the bailable warrants issued for securing the presence of Dr. Ajay Sheoran. Subsequently, vide order dated 13.09.2021 the evidence of the petitioner was closed. Learned counsel would further contend that the petitioner only wants to secure the presence of Dr. Ajay Sheoran, PGIMS,

Rohtak for proving his disability certificate. Learned counsel would further contend that in case the order dated 13.09.2021 is set aside and the petitioner is permitted to summon Dr. Ajay Sheoran, he would not be pressing the revision petition qua his challenge to the order dated 17.11.2022 (Annexure P-6).

3. *Per contra*, learned counsel for the respondent has contended that numerous opportunities were taken and despite 12 effective opportunities the evidence was not concluded.

4. I have heard the learned counsel for the parties.

5. In the present case, on numerous dates, as is apparent from the zimni orders,ailable warrants were issued for securing the presence of Dr. Ajay Sheoran. From 19.10.2019 the orders reveal thatailable warrants were issued to secure the presence of Dr. Ajay Sheoran. Lastly,ailable warrants were issued on 08.04.2021. Thereafter, there is no report regarding service or appearance of Dr. Ajay Sheoran. The Tribunal having issuedailable warrants on 08.04.2021 to secure the presence of Dr. Ajay Sheoran ought to have taken the same to its logical end in case the summoned witness was not appearing. The argument of the learned counsel for the respondent that 12 effective opportunities were taken, however, the evidence was not concluded cannot be held against the petitioner herein as Dr. Ajay Sheoran was a summoned witness and the disability certificate was also called for by the Court and was received by post. In view thereof, the Tribunal ought to have ensured the presence of Dr. Ajay Sheoran.

6. In view of the above, the present revision petition is allowed to the extent that the order dated 13.09.2021 (Annexure P-3) is set aside. The

Tribunal shall take effective steps for ensuring the presence of Dr. Ajay Sheoran. In view of the fact that the order dated 13.09.2021 has been set aside, learned counsel for the petitioner states that he does not wish to press the revision petition qua his challenge to the order dated 17.11.2022 (Annexure P-6). Ordered accordingly.

7. Disposed off in the above terms. Pending miscellaneous applications, if any, also stand disposed off.

18.03.2024
Ankur

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO