



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

112**CR-2927-2024 (O&M)****Date of Decision : 31.05.2024**

ASHWANI ARORA

.... Petitioner

VERSUS

M/S VAIBHAV YARN MILLS PVT. LTD.

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Raju Arora, Advocate for the petitioner.

ALKA SARIN, J. (ORAL)

1. The present petition has been filed under Article 227 of the Constitution of India challenging the order dated 25.01.2024 (Annexure P-4) whereby the evidence of the defendant-petitioner was closed by order, and the order dated 23.02.2024 (Annexure P-5) vide which the review application was also dismissed.

2. Learned counsel for the defendant-petitioner would contend that there were two summoned witnesses qua whom diet money was also deposited on two occasions, however, they never appeared in Court and the evidence of the defendant-petitioner was closed vide the impugned order dated 25.01.2024. Review application was also dismissed vide order dated 23.02.2024. Learned counsel for the defendant-petitioner would further contend that two summoned witnesses and one private witness need to be examined and that given one effective opportunity the private witness would be examined at the own risk and responsibility of the defendant-petitioner.

However, two summoned witnesses would be required to be issued fresh summons by the Court.

3. Notice of motion.

4. Mr. Yogesh Goel, Advocate and Mr. Lakshay Goel, Advocate accept notice on behalf of the plaintiff-respondent and waive service. Learned counsel for the plaintiff-respondent would contend that despite numerous opportunities the evidence was not led and hence the evidence of the defendant-petitioner was rightly closed by order.

5. Heard.

6. In the present case on 19.12.2023 *dasti* summons were provided for witnesses and diet money had been deposited. However, the summoned witnesses did not put in appearance and the evidence of the defendant-petitioner was closed by order vide order dated 25.01.2024. Once the diet money had been deposited it was for the Court to ensure that the summoned witnesses appear in the Court.

7. In view of the above, order dated 25.01.2024 (Annexure P-4) is set aside and the defendant-petitioner is granted one effective opportunity to produce the private witness for his evidence subject to payment of Rs.30,000/- as costs to be paid by the defendant-petitioner to the plaintiff-respondent. The payment of costs shall be a condition precedent. The Court concerned shall issue fresh notices to the two summoned witnesses for ensuring their presence as per law. Since the suit has been pending since long, as has been noticed by the Trial Court also, the same be concluded

expeditiously. The Court concerned shall not grant any unnecessary adjournment in the case to either of the parties.

8. Disposed off. Pending applications, if any, also stand disposed off.

31.05.2024

Aman Jain

(ALKA SARIN)

JUDGE

*NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No*