

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

206

CR No.3386 of 2021

Date of Decision : 28.02.2024

Ram Kumar

....Petitioner

VERSUS

Gram Panchayat Village Jhattipur and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. J.C. Malik, Advocate for the petitioner.

ALKA SARIN, J. (Oral)

1. The present revision petition has been filed challenging the order dated 06.10.2021 whereby the evidence of the petitioner has been closed by the Trial Court.

2. Notice of motion was issued in the present case on 17.12.2021. Though the Trial Court was directed to proceed with the matter, however, passing of the final order was stayed. Initially, Mr. Satish Choudhary, Advocate had put in appearance on behalf of the respondents, however, since 01.06.2023 none has been appearing on behalf of respondent No.1. Even today, none has appeared on behalf of respondent No.1. Learned counsel for the petitioner has stated that respondent No.1 is the only contesting party in the present case.

3. Learned counsel for the petitioner would contend that the petitioner had deposited the diet money for the witnesses and as per order

dated 17.09.2021 notices issued to Halqa Patwari and Ashok Kumar were received back served and the notice issued to PW Mewa Devi was received back with the report of refusal and pasting. Since they were not present hence they were directed to be summoned throughailable warrants. On 06.10.2021 PW10 Amit Kumar, Halqa Patwari was present and examined. The other witnesses did not come present despiteailable warrants. Learned counsel for the petitioner would further contend that the Court instead of taking the matter further and issuing non-ailable warrants for summoning the witnesses, closed the evidence of the petitioner. Learned counsel for the petitioner would contend that given one opportunity the petitioner would produce the witnesses at his own risk and responsibility.

4. Since no one is present on behalf of respondent No.1-Gram Panchayat, it is proceeded against *ex parte*.

5. Heard.

6. Vide order dated 17.09.2021 processes were issued throughailable warrants in the sum of Rs.5,000/- with one surety in the like amount qua witnesses Ashok Kumar, Halqa Patwari and Mewa Devi, returnable 06.10.2021. On 06.10.2021, one of the witnesses, namely, Amit Kumar, Halqa Patwari was present and examined as PW10. The remaining witnesses did not come present and the evidence of the petitioner was closed. Once the processes had been issued throughailable warrants for securing the presence of the witnesses, the Trial Court ought to have ensured the presence of the witnesses rather than closing the evidence of the petitioner.

7. In view of the above, the impugned order is set aside. The petitioner is granted two effective opportunities to conclude his evidence at his own risk and responsibility.

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

(ALKA SARIN)
JUDGE

28.02.2024
jk

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