



CR-657-2025(O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-657-2025(O&M)

Date of decision : 13.02.2025

Varun Verma

... Petitioner

Versus

Varun Rohilla and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Aakash Singla, Advocate
for the petitioner.

Mr.Sandeep Kotla, Advocate
for respondent no.1.

Mr.Jagdish Manchanda, Addl.A.G. Haryana
for respondents no.3.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 16.01.2025 (Annexure P-6) passed by the Civil Judge (Sr.Div.), Panchkula, vide which the case was adjourned from 16.01.2025 to 17.01.2025 with a direction to bring the evidence at own responsibility and a preemptive order of “evidence being deemed to be closed by court orders” was passed and also the impugned order dated 17.01.2025 (Annexure P-7) passed by the Civil Judge (Sr.Div.), Panchkula, vide which the evidence of the petitioner-plaintiff has been closed by order.



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2. On 31.01.2025, this Court was pleased to pass the following order:-

“Inter alia contends that the issues in the present case were framed on 21.10.2024 and the petitioner was permitted to give a list of witnesses and thereafter the petitioner had given the list which included Ashok Kumar, attesting witness of the will and dealing official of office of Sub Registrar, Abohar alongwith attested copy of original record pertaining to will dated 06.02.2017 and for summoning the said witnesses, the petitioner had deposited the diet money of Rs.1,700/-. It is submitted that since the concerned Clerk from the office of the Sub Registrar, Abohar along with the attested copy of original record had not appeared, the Court should have taken coercive steps to get the presence of the said witnesses of the summoned witnesses.

Notice of motion for 10.02.2025.

Notice re: stay.

Mr. Jagdish Machanda, Addl.AG, Haryana appears on behalf of respondent no.3.

To be taken up in the urgent list.

Liberty is granted to the petitioner to serve respondent no.1 through dasti process and also through the counsel before the learned trial Court.

Till the next date of hearing final order may not be passed.”

3. Learned counsel for the petitioner in support of his arguments has relied upon the judgment dated 29.07.2024 passed by this Court in **CR-3734-2023** titled ***Inder Pal and another Vs. Sat Pal (now deceased)*** ***through his LRs and others***, has held as under:-

“A perusal of the zimni orders would show that although



coercive steps were taken to secure the presence of other witnesses but no coercive steps were taken to secure the presence of the above said two witnesses, who are material witnesses. It is a matter of settled law that as per the provisions of Order 16 Rule 10 CPC, where a witness fails to comply with the summons of the Court and the evidence of the said witness is material, then in such a situation, the Court is required to take coercive steps including issuance of warrants, moreso when the party leading its evidence has done all that is in their hand for summoning them through the Court, which would include deposit of process fee and diet money, as has been done in the present case. A coordinate Bench of this Court vide order dated 12.07.2000 passed in CR-6416-1999 titled as “Piara Singh vs. Smt. Vidhya Wati” had held as under:-

“In such circumstances, it was not proper for the trial Court to close the evidence of the petitioner. If a witness in spite of service or in spite of being bound down does not appear, it is for the Court to procure his presence by issuance of warrants but the Court could not take the extreme step of closing the evidence of the petitioner. It is the duty of the Court to enforce attendance of the witnesses where the party has done everything in that regard and the Court can take recourse to the provisions of Order 16 Rule 10 CPC for compelling the attendance of recalcitrant witnesses.”

The learned trial Court has not considered the said provision and the settled proposition of law, resulting in passing of the impugned orders which deserve to be set aside.

Keeping in view the above said facts and circumstances, the present revision petition is partly allowed and the impugned orders dated 15.05.2023 (Annexure P-6) and dated 19.05.2023 (Annexure P-8) are set aside and the petitioners



are permitted to examine the said two witnesses i.e., Gopal Bhushan Sharma and Gulshan Kumar and are granted two effective opportunities for the said purpose with the help/assistance of the trial Court. The trial Court would adopt the procedure for enforcing/securing the presence of the two witnesses in accordance with Order 16 Rule 10 CPC as also the settled law. The same would however be subject to the petitioners depositing with the trial Court an amount of Rs.10,000/- within a period of two weeks from today, which would be paid to the plaintiffs in the present case. It is made clear that in case the said amount is not deposited, then the present revision petition would be deemed to have been dismissed”.

It is further submitted that the petitioner only wishes to examine the concerned official to bring the official record from the office of Sub Registrar, Abohar along with the attested copy and original record pertaining to Will dated 06.02.2017 and the concerned record keeper from the Court of concerned JMIC, Abohar, with the assistance of the Court in view of the law laid down in the abovesaid judgment.

4. Learned counsel appearing for respondent no.1 has submitted that in case any opportunity is to be granted, the same should be restricted and has further submitted that costs be paid to respondent no.1 for having to defend the present revision petition.

5. Learned counsel for the petitioner has submitted that since the impugned order is in violation of settled provision of law, thus, the petitioner is not bound to pay any cost but in view of the objection taken by learned counsel for the respondent no.1 and the fact that the respondent no.1



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had to appear in the present revision petition, in order to show his bonafide, the petitioner is ready to pay costs of Rs.5000/- to respondent no.1.

6. Keeping in view the abovesaid facts and circumstances and the law laid down in the above said judgment, the present revision petition is partly allowed and the order dated 16.01.2025 to the extent that last opportunity had been granted to the petitioner to lead evidence and also the order dated 17.01.2025 to the extent that the evidence of the petitioner has been closed by order are set aside and the petitioner is granted two effective opportunities to get the witnesses as mentioned in paragraph 3 of the presnt order examined with the assistance of the Court and the same would be subject to the petitioner depositing the costs of Rs.5000/- within a period of one week from today which would be released to respondent no.1 by the trial Court.

7. It is made clear that in case the said amount is not deposited, then the present revision petition would be deemed to have been dismissed.

(VIKAS BAHL)
JUDGE

February 13, 2025.
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No