

CR-3910-2025

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2025:PHHC:092198



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-3910-2025

Date of decision : 24.07.2025

Sanjeev Kumar Jain

... Petitioner

Versus

Anuradha and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Adarsh Jain, Advocate and
Ms.Amandeep Kaur, Advocate
for the petitioner.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the order dated 20.05.2025 passed by the trial Court closing evidence of plaintiff by order of Court and also order dated 06.05.2025 vide which the plaintiff was directed to conclude recording of evidence, failing which evidence of plaintiff shall be deemed to be closed.

2. Learned counsel for the petitioner has submitted that in the present case, the present petitioner had filed a civil suit under Section 6 of the Specific Relief Act, 1963 for possession of premises in question and that there is no injunction order in favour of the petitioner. It is submitted that the delay in the proceedings would primarily prejudice the petitioner. It is



further submitted that although the petitioner has got several witnesses examined but five important witnesses are yet to be examined, who are detailed as under:-

- “(i) *Plaintiff-Sanjeev Kumar Jain*
- (ii) *Jogender Pal*
- (iii) *Aditya Bajaj, Inspector CGST*
- (iv) *Clerk, Registrar of Marriages*
- (v) *Sanjay Ahlmad Court of Gitanjali Goel*”

3. It is argued that as far as witnesses no.3, 4 and 5 are concerned, they are official witnesses and a perusal of the application dated 11.02.2025 would show that diet money regarding the said witnesses was duly deposited and thereafter the said witnesses were also summoned but as is apparent from the order dated 06.05.2025, one of the summoned witnesses i.e., Clerk from the office of Registrar of Marriage was duly served but he did not choose to appear and fresh warrant of arrest was issued regarding the same but subsequently, in the subsequent zimni orders no further coercive steps were taken to summon the witnesses. It is argued that in the said circumstances, it was incumbent for the Court to have taken all further steps to summon the said official witnesses. In support of his arguments, learned counsel for the petitioner has relied upon the judgment of this Court in *CR-3734-2023* titled as “***Inder Pal and another vs. Sat Pal (now deceased) through his LRs and others***” decided on 29.07.2024. It is submitted that the case is now fixed for 28.08.2025 and no defendant



witness has been examined and the petitioner would produce the witnesses no.1 and 2 on the said date and has further prayed that two effective opportunities be granted to the petitioner with Court help to examine official witnesses no.3, 4 and 5.

4. Notice of motion was issued in the present case. As per the report of the Registry, the respondents have been duly served. However, no one has appeared on behalf of the respondents to contest the case although the case has been taken up on two occasions.

5. This Court has heard learned counsel for the petitioner and has perused the paper book.

6. This Court in the case of ***Inder Pal (supra)*** had held as under:-

“6.....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.”

7. *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.*

8. *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.”*

7. The law laid down in the above said case fully covers the present case. A perusal of the application dated 11.02.2025 as well as zimni order would show that diet money with respect to the Inspector GST, Clerk, Registrar of Marriage and Sanjay Ahlmad in the Court of Gitanjali Goel (presently Chetesh Gupta), have been duly deposited and other necessary



steps were also taken. A perusal of the zimni order dated 06.05.2025 would show that warrant of arrest issued against the concerned Clerk from the office of Registrar of Marriage, Naraingarh had been received back executed but he had not appeared before the Court and accordingly, fresh warrant of arrest for said witness was issued for the next date of hearing. On the next date of hearing i.e., 20.05.2025 the said witness did not appear but the Court did not adopt coercive methods to summon the said witness or the other two witnesses i.e., Inspector GST and Ahlamd in the Court of Ms.Gitanajli Goel (presently Chetesh Gupta) but on the other hand, vide order dated 20.05.2025 closed the evidence of the petitioner except for the purpose of cross-examination of PW-2 and PW-5.

8. The suit filed by the present petitioner is under Section 6 of the Specific Relief Act for possession of the property in question and it is the case of the petitioner that there is no injunction in favour of the petitioner. Delay if any in the proceedings would primarily prejudice the petitioner. The impugned order dated 20.05.2025 to the extent that the evidence of the petitioner has been closed, has been passed without taking into consideration the abovesaid law laid down in the case of ***Inder Pal (supra)***. No one has appeared on behalf of the respondents to oppose the present petition filed by the present petitioner.

9. Keeping in view the above said facts and circumstances, the present petition is allowed and the impugned order dated 20.05.2025 to the



extent that the evidence of the petitioner-plaintiff has been closed by order is set aside with the following directions:-

- i) The petitioner is granted two effective opportunities to get examined Aditya Bajaj, Inspector GST and Clerk from the office of Registrar of Marriage and Sanjay Ahlmad in the Court of Gitanjali Goel (presently Chetesh Gupta) with the help / assistance of the trial Court. The trial Court would adopt the procedure for securing the presence of the said witnesses under Order 16 Rule 10 CPC as per settled law.
- ii) The petitioner is also granted one effective opportunity to examine the plaintiff Sanjeev Kumar Jain and Jogender Pal and for the said purpose, the petitioner would produce the said two witnesses on 28.08.2025, which is stated to be next date of hearing and in case the said two witnesses are produced on the said date of hearing, then their evidence would be taken into consideration and due opportunity would be given to the respondent to cross-examine the said witnesses.
- iii) The petitioner would deposit Rs.10,000/- as costs on or before 28.08.2025 which amount would be released to respondents no.1 and 2 in equal proportion i.e., Rs.5000/- each.

(VIKAS BAHL)
JUDGE

July 24, 2025.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No