

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

Sr. No.139

CR-5250-2019

Date of Decision: 28.08.2025

SUKHWINDER SINGH

....Petitioner

Versus

CAPTAIN UJAGAR SINGH AND OTHERS

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Rahul Rampal, Advocate
for the petitioner.

Ms. Vandana Sharma, Advocate
for respondent No.1 (sole contesting respondent).

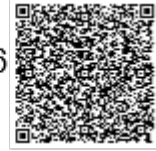
ARCHANA PURI, J. (Oral)

Challenge in the present revision petition is to the order dated 26.07.2019, passed by learned Executing Court, vide which the evidence of the petitioner-objector, namely, Sukhwinder Singh, was closed by order.

In pursuance of the notice issued, respondent No.1, who is the sole contesting respondent, made appearance through counsel.

Counsel for the parties heard.

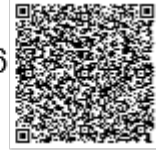
Initially, contesting respondent-Captain Ujagar Singh, had filed a suit for possession by way of specific performance of an agreement to sell dated 10.09.2008, against Malkit Singh, Harpreet Singh and State Bank of



Patiala. The said suit was decreed and the execution petition was filed. During the pendency of the execution, Sukhwinder Singh, the present petitioner had made appearance and filed third party objections, before the Court, copy whereof is Annexure P-2, thereby, asserting his right to the property, which formed the basis of the civil suit. After hearing arguments on objections, vide order dated 12.04.2016, issues were framed and the case was fixed for recording of evidence of the petitioner-objector. Copies of various zimini orders, till the passing of the impugned order, have been placed on record.

Before advertng to the orders, it is pertinent to mention that an application for the summoning of the witnesses was filed by the petitioner-objector. At first instance, while considering the said application, vide order dated 19.04.2018, it was observed that it is not in compliance with Order 16 CPC and thereupon, on the next date i.e. on 30.04.2018, the amended list of witnesses was filed. Copy of the said application is Annexure P-4. It is significant to note that after filing of this list of witnesses, statement of Sukhwinder Singh was recorded and the record relating to Vasika No.11066, was ordered to be summoned by the Court on 16.05.2018. Thereupon, fresh summons were repeatedly issued to summon the Clerk of Sub-Registrar (W), Ludhiana, but his service was not got effected. Suffice to consider the orders dated 21.05.2018, continuously till 17.08.2018.

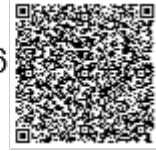
In the meanwhile, an application under Section 35 of the Indian Stamp Act was filed and the same also remained pending. Another application was filed, which was allowed vide order dated 12.11.2018 and for the evidence of Sukhwinder Singh-objector, the case was adjourned



further. Time and again, the witnesses were ordered to be summoned. However, no observations have been made in the subsequent orders by the Executing Court, about service of the witnesses having been effected and if not, whether any coercive steps were taken. Relating to the same, there is absolute silence, though, other witness Ms. Neetika Chauhan was examined by the Court. This continued till 10.07.2019 and on the subsequent date i.e. 26.07.2019, the impugned order was passed by learned Executing Court, thereby, observing about the petitioner-objector to have availed 17 effective opportunities, but failed to conclude the evidence.

This observation made in the impugned order is palpably erroneous. Once the witnesses have been ordered to be summoned, as per the list furnished by the one of the parties to the lis, then it is incumbent upon the Court concerned to ensure about summoning of the witnesses and if for one reason or other, witnesses are not making appearance, or their service is not effected, then the Court concerned is required to take coercive steps and proceed further. However, in the case in hand, when the witnesses were summoned and their service was not effected, there cannot be said to be any lapse, on the part of the petitioner-objector. In fact, the Executing Court was required to further secure the service of the witness, who is a government employee.

Considering all the aforesaid circumstances, the impugned order warrants interference and the same is hereby set aside. Learned Executing Court shall give three opportunities to the petitioner-objector to summon the witness and lead evidence and shall also be at liberty take coercive steps to secure the presence of the Clerk of Sub-Registrar (W), Ludhiana, along with



record of Vasika No.11066. Even, the Court shall issue double set of summons and one set be given dasti. In case of witness not being examined or not making appearance, further necessary steps, with regard to entry in the service record of the witness, may be ordered to be recorded by the Executing Court.

The aforesaid three opportunities shall be given to the petitioner-objector, by the Executing Court, with a gap of 15 days each.

In view of the aforesaid terms, the present revision petition is hereby disposed of.

28.08.2025

Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No