



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

Sr. No.168

CR-5725-2023

Date of Decision: 25.02.2026

KRISHNA DEVI AND ANOTHER

....Petitioners

Versus

HITESH AGGARWAL AND ANOTHER

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Neeraj Sharma, Advocate
for the petitioner.

Mr. Govind Goel and Mr. Rahul Rana, Advocate
for respondent No.2.

ARCHANA PURI, J. (Oral)

Challenge in the present revision petition is to the order dated 05.09.2023, passed by learned trial Court in civil suit i.e. CS/394/2015, whereby the evidence of the petitioners (defendants in the original suit), was closed by order.

In pursuance of notice issued, respondent No.2 (one of the plaintiff in the original suit), made appearance through counsel. However, service upon respondent No.1 was not effected, on account of incomplete address.



Counsel for the parties heard.

The facts germane to be noticed are that the suit for possession, by way of specific performance of contract dated 12.01.2012, was filed by the respondents/plaintiffs, against the petitioners/defendants. During the pendency of the said suit, when it was at the stage of recording of defendant's evidence, the evidence of the petitioners/defendants was closed by order.

From the perusal of the impugned order, it is evident that Clerk/official of FSL, Madhuban, was summoned by the petitioners/defendants and last opportunity was granted for effecting service upon the said witness, for the date fixed by the Court. However, from paragraph No.2 of the impugned order, it is evident that service was effected upon the Clerk/official of FSL, Madhuban and report was made to the effect that "*case reporting officer Sh. Narender Kumar Jain has been transferred to FSL, Bhondsi, Gurugram*". However, even though, said report has been reproduced in the impugned order, but however, it was observed by the Presiding Officer that the said report is no ground for grant of further opportunity to the defendants, to lead evidence, as the Court had issued summon for the concerned record and any of the record-keeper of FSL, Madhuban, could have brought the concerned record in the Court, in the evidence of the defendants.

However, the observations aforesaid are palpably erroneous. No doubt, as observed in the subsequent paragraph, several opportunities, to the extent of 40-41, had already been availed by the defendants to conclude



their evidence, but however, the Court concerned cannot shirk from its responsibility to get the service effected upon the same witness. Even if, the Clerk was summoned and report was made, but however, the petitioners/defendants, in any manner, cannot be taken to be aware of transfer of the official of FSL. In the light of the same, they were under the impression that Clerk, would have come and even if, the said witness did not come, the Court was required to conduct further proceedings, with regard to securing his presence. However, the claim of the petitioners, as such, could not be whittled by learned trial Court, by closing evidence, by order. In the light of the same, the impugned order brooks interference, while exercise of the revisional jurisdiction.

In view of the aforesaid fact situation, the revision petition is hereby allowed and the impugned order is set aside, with a direction to the Court concerned to proceed further with summoning of the witness i.e. Clerk/official of FSL, Madhuban, along with relevant record. In the eventuality of the petitioner being aware of the official/officer, who made the report, he may furnish the particulars of the same and his place of posting to learned trial Court, within a period of seven days, from the date when the parties make appearance before the Court concerned.

On query by this Court, the counsel have made submission that they are not aware of the date fixed before learned trial Court. As such, the parties are directed to make appearance before learned trial Court on 13.03.2026. However, considering the date actually fixed in the civil suit,



the Court concerned has an option to prepone the case, if so required and proceed further with the summoning of the witness and examine him/her.

25.02.2026
Himanshu Vats

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No