



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

205

CR-1570-2023 (O&M)

Date of Decision: 10.01.2025

GAGANDEEP KAUR AND ANR

... Petitioners

VERSUS

HARKESH SINGH AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. A.P.S. Rehan, Advocate for
Mr. Mohit Jaggi, Advocate for the petitioners.

Mr. Vijay Lath, Advocate for the respondents.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 20.01.2023 (Annexure P-3) passed by the learned Civil Judge (Junior Division) Rupnagar vide which the evidence of the plaintiff-petitioners was closed by order.

2. Learned counsel for the plaintiff-petitioners would contend that the witness, namely, Gajjan Singh (Kanungo) had been bound down for 20.01.2023, however, he failed to appear and the evidence of the plaintiff-petitioners was closed by order on the said date. Learned counsel would further contend that even on the previous dates, the said witness was bound down but he did not come present. It is further the contention that once the witness is bound down and he did not appear, it is for the Court to take requisite steps to ensure the presence of the said witness.

3. *Per contra*, learned counsel for the defendant-respondents would contend that despite numerous opportunities the evidence was not led by the plaintiff-petitioners and hence no fault can be found with the impugned order dated 20.01.2023.

4. Heard.

5. In the present case a perusal of the zimni orders reveals that one of the witnesses, namely, Gajjan Singh (Kanungo) was bound down on various dates, however, he did not appear and had only appeared on 04.11.2022. However, since he did not bring the complete summoned record, he undertook to produce the same on the next date of hearing and he was bound down for 24.11.2022. On 24.11.2022 the said witness did not put in appearance. The same was the situation on the subsequent dates and eventually vide order dated 20.01.2023 the evidence of the plaintiff-petitioners was closed by order. Once the witness had been bound down, it was incumbent on the Court concerned to ensure the presence of the said witness by resorting to due process of law. The plaintiff-petitioners cannot be penalized for the non-appearance of the summoned witness.

6. In view of the above, the impugned order dated 20.01.2023 cannot sustain and the same is accordingly set aside. The plaintiff-petitioners are granted one opportunity to conclude their entire evidence. Needless to say that the Court concerned would ensure the presence of the summoned witness. The Trial Court is requested not to grant any unnecessary adjournments to either of the parties.

7. Revision petition stands disposed off in the above terms.

Pending applications, if any, also stand disposed off.

10.01.2025

Aman Jain

(ALKA SARIN)

JUDGE

*NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No*