



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

206

CR-860-2025 (O&M)

Date of Decision : 22.04.2025

BHUPINDER SINGH AND ANR

.... Petitioners

VERSUS

BALWINDER SINGH AND ANR

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Chandeeep Singh, Advocate for the petitioners.

Mr. Naveen Bawa, Advocate for the respondents.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 09.12.2024 (Annexure P-7) passed by the learned Civil Judge (Junior Division), Ludhiana whereby the evidence of the plaintiff-petitioners was closed by order.

2. Learned counsel for the plaintiff-petitioners would contend that two official witnesses i.e. Clerk from the Office of Sub-Registrar (East), Ludhiana and Clerk from the Office of Sub-Registrar (West), Ludhiana were summoned along with the relevant record. Initially the said witnesses along with the relevant record were summoned through the agency of the Court. However, they were willfully and intentionally avoiding service. Thereafter, since the case fell in the category of 'action plan', summons were issued for producing the said witnesses and the responsibility for producing the said witnesses was put upon the plaintiff-petitioners herein. Learned counsel for

the plaintiff-petitioners would further contend that despite best efforts by the plaintiff-petitioners, the said witnesses cannot be produced. The learned counsel for the plaintiff-petitioners would contend that as per the provisions of Order XVI Rules 10 and 12 CPC, once the witnesses were summoned witnesses and were not appearing in the Court, it was for the Court to ensure their presence in terms of the provisions of Order XVI Rules 10 and 12 CPC.

3. *Per contra*, learned counsel for the defendant-respondents would contend that despite repeated and numerous opportunities, the plaintiff-petitioners failed to produce the said witnesses for recording of their evidence and hence no fault can be found with the impugned order passed by the Court concerned.

4. Heard.

5. In the present case on 10.11.2023 notices were issued to the Clerk from the Office of Sub-Registrar (East), Ludhiana and Clerk from the Office of Sub-Registrar (West), Ludhiana which were received back with the report that 'they were busy before another Court'. The said witnesses were directed to appear before the Court on 17.11.2023. On 17.11.2023 fresh notices were again issued for 22.11.2023. On 22.11.2023 yet again both the said witnesses did not appear and they were directed to appear on the next date of hearing which was 28.11.2023. Fresh summons were again issued for 06.12.2023. On 06.12.2023 yet again fresh summons were issued for 14.12.2023 as the summons were received back unserved. On 14.12.2023 fresh notices were once again issued for 20.12.2023. On 19.12.2023 (file taken up on 19.12.2023 as the learned Presiding Officer concerned was on

leave on 20.12.2023) fresh summons were again issued to the Clerk from the Office of Sub-Registrar (East), Ludhiana and Clerk from the Office of Sub-Registrar (West), Ludhiana. Thereafter, the orders do not state anything about the said two official witnesses having appeared in Court. Subsequently, on various dates there was no reference to the notices issued to the Clerk from the Office of Sub-Registrar (East), Ludhiana and Clerk from the Office of Sub-Registrar (West), Ludhiana. On 13.09.2024 fresh notices were yet again issued for the said witnesses for 23.09.2024. On 23.09.2024 again notices were issued. On 07.10.2024 notices issued to the said witnesses were received back unserved and fresh notices were again issued to them (this time at the own risk and responsibility of the plaintiff-petitioners). On 11.10.2024 fresh notices were issued for 16.10.2024 which again were received back unserved. On 28.10.2024 the said two official witnesses were summoned throughailable warrants in the sum of ₹10,000 (rupees ten thousand) for 07.11.2024. Yet again on 07.11.2024 summons were received back unserved and fresh notices were issued to the said witnesses and the plaintiff-petitioners were granted last opportunity for producing the said witnesses. It is strange that once the official witnesses had been summoned by the Court and they were not appearing the Court instead of following the procedure as laid down in Order XVI Rules 10 and 12 CPC issued notice at the responsibility of the plaintiff-petitioners.

6. In view of the above, the impugned order dated 09.12.2024 (Annexure P-7) cannot be sustained and the same is accordingly set aside. The Trial Court concerned shall ensure the presence of the said two official

witnesses i.e. Clerk from the Office of Sub-Registrar (East), Ludhiana and Clerk from the Office of Sub-Registrar (West), Ludhiana, along with the relevant record, for recording of their evidence, in accordance with law. The Trial Court is requested not to grant any unnecessary adjournments to either of the parties.

7. The present revision petition stands disposed off accordingly. Pending applications, if any, also stand disposed off.

22.04.2025
Aman Jain

(ALKA SARIN)
JUDGE

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