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

CR-2900-2021

Date of Decision: August 18, 2025

MOHAN SINGH

.....Petitioner

Versus

VASHISHT BHASKAR AND ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sanjay Majithia, Sr. Advocate with
Mr. Sumit Sinha, Advocate for the petitioner.

None for the respondents.

HARKESH MANUJA, J. (ORAL)

By way of present revision petition, challenge has been laid to an order dated 02.11.2021 passed by the learned Civil Division (Junior Division), Hoshiarpur whereby, evidence of defendant-petitioner has been closed by Court order.

2. Present revision petition arises out of a civil suit filed at the instance of contesting respondents wherein, prayer for recovery of Rs.50,000 after rendition accounts against occupation of the land in question by the defendant-petitioner (hereinafter referred to as defendant) was claimed.

3. Issues in the present suit were framed by the learned trial Court on 07.05.2013 and thereafter, the matter was posted for recording of evidence of plaintiff. The trial Court vide order dated 18.09.2019 closed the oral evidence of the plaintiffs whereas, the documentary evidence was closed on 31.10.2019 and the suit was adjourned for recording of evidence of defendants for 08.11.2019. The defendants

having examined DW-1 namely, Mohan Singh moved an application for summoning of records from the Agrarian Branch, D.C. Office, Hoshiarpur. In terms thereof, Kultar Singh-Patwari appeared as DW-2 before the learned trial Court on 17.08.2021 but could not produce the record and the following order was passed:-

“DW2 Kultar Singh patwari present and suffered a statement that he has brought the original rapat roznamacha dated 12.09.2016 containing rapat no.14 in between one point X to X1 and the correct copy of Roznamacha is Ex.DW2/A which is correct as per his record. This report Roznamacha in my possession when he took charge as patwari of this area which is recorded separately his corsexamination stands deferred. DW2 Kultar Singh Patwari is bound down for 03.09.2021. Today an application of the defendant under order 12 rule CPC filed today. Now, to come up on date ahead fixed for filing its reply.”

4. Later, despite numerous opportunities, DW-2 –Kultar Singh could not produce the record before the learned trial Court, however, the evidence of the defendant was closed vide Court order on 02.11.2021. The orders passed by the learned trial Court since 17.08.2021 till the date of passing of the order dated 02.11.2011 are extracted hereunder:-

Order dated: 31.08.2021

“File taken up today as I will be on casual for 03.09.2021. File be now put up on 08.09.2021 for the purpose as the case already fixed. Reader of this court is directed to inform the parties accordingly.”

Order dated: 08.09.2021

“DW Kultar singh Patwari has come present and got recorded his statement and requested to summon the record from concerned Department of Aggragarian branch (SK Branch) of DC office, Hoshiarpur. Let notice to said concerned branch to summon the record be issued for 20.09.2021. Last opportunity is granted for said purpose. Dasti be takne at own responsibility.

Reply not filed to application U/o 12 Rule 2 CPC. Be filed on date fixed”

Order dated: 20.09.2021

“Witnesses have come present but not examined and requested for short adjournment. On request, adjourned to 21.09.2021 for awaiting appearance of concerned witnesses. Reply to application U/o 12 Rule 2 CPC not filed be filed on 21.09.2021.”

Order dated: 21.09.2021

“DW Kultar Singh has come present but he could not produce record today. He stands bound down for next date of hearing. Now to come up on 23.09.2021 for awaiting appearance of witness Kultar singh Patwari.”

Order dated: 23.09.2021

“Witness Kultar singh have come present and suffered separate statement that the summoned record is not available in their office and the office cannot produce the same in future. He stands bound down for witness on 24.09.2021. Now Karam Singh Patwari Revenue Department and Additional Charge of Aggragarian Branch be called for date fixed.”

Order dated: 24.09.2021

“Karan Singh Patwari Revenue Department and Additional charge of Aggragarian Branch not prodcued. Accordingly 1/3 salary of Karan Singh Patwari Revenue Department stands attached for the aforesaid non compliance of the orders of this court. Intimation regarding attachment of salary of Karan Singh Patwari be sent to the concerned quarter for necessary compliance. Now to come up on 28.9.2021 for awaiting report.”

Order dated: 24.09.2021

“Perusal of the last zimini order shows that inadvertently the name of witness Karam Singh Patwari of Revenue Department was written as ‘Karan Singh’ instead of ‘Karam Singh’ . Error stands rectified in the interest of justice. Witness Karam Singh Patwari has failed to produce the summoned record after availing number of opportunities. Accordingly, 1/3 salary of Karam Singh Patwari Reveune Department stands attached for for the aforesaid non compliance of the orders of this court. Intimation regarding attachment of salary of Karam Singh Patwari be sent to the concerned quarter for necessary compliance. Now to come up on 08.10.2021 for awaiting report. Remaining evidence of defendant be also produced at own responsibility, subject to last opportunity.”

Order dated: 08.10.2021

“Karam Singh Patwari Agrarian Sadar Kanungo Branch, O/o Deputy Commissioner, Hoshiarpur suffered statement and tendered affidavit that he could not produce any certificate regarding lost record from competent authority. In view of the statement suffered by witness Karam Singh Patwari he is relieved. Now to come up on 18.10.2021 for remaining defendant evidence.”

Order dated: 18.10.2021

“No DW is present. As per report notice sent to Halqa Patwari received back unserved. Let fresh notice to witness be again issued for 1.11.2021, subject to last opportunity. Dasti be taken at own responsibility.”

Order dated: 01.11.2021

“Witness Halqa Patwari served and came present before this court. Case called several times since morning. But none has appeared on behalf of defendant for examination of the witness in question. At 4:15 P.M. Munshi on behalf of defendant along-with defendant has appeared and requested for an adjournment on the ground of absence of counsel. It is to be seemed that case was fixed for evidence of the defendant on 31.10.2019 and since then 27 effective opportunities have already been availed by defendant to conclude its evidence. Further, present case falls within one of oldest category of the cases. As such, one last opportunity is granted to defendant to conclude its evidence in the present case and on request of defendant itself, the present witness stands bound down for tomorrow i.e. 2.11.2021 subject to payment of cost of Rs. 500/- to said witness. It is further clarified that defendant has directed to conclude its evidence on next date of hearing i.e. 2.11.2021, failing which the evidence shall be deemed closed by order.”

Order dated: 02.11.2021

“Sh. Kultar Singh Halqa Patwari has come present and suffered statement that the summoned record is not available with him and same does not relate to him.

Today the case was fixed for evidence of defendant including one last opportunity but despite one last opportunity defendant has failed to conclude its entire evidence. As the case falls under the category of oldest cases. There is no justification to grant further opportunity to conclude the evidence of defendant. Hence, the evidence of defendant is closed by order except documentary evidence. Now to come up on 10.11.2021 for documentary evidence of defendant as well as for rebuttal evidence if any else for arguments.”

5. Perusal of the abovementioned orders clearly reflects that despite having been granted number of opportunities, Kultar Singh-Halqa Patwari/DW-2 did not produce the record, however, instead of compelling the official witness for production of record, the learned trial Court having failed to exercise its power under Order 16 CPC closed the evidence of defendant thereby causing serious prejudice to their rights despite they being not at fault. As such, the order dated 02.11.2021 passed by the learned trial Court being unsustainable in law and also in violation of natural justice is set aside. Once the defendants

have sought assistance of the learned trial Court for summoning of relevant official records and the same has been granted, the process thereupon has to be taken to its logical end rather than making them suffer at the hands of unwilling officials unless it is prima facie established that the summoned record is unavailable.

6. The trial Court is requested to exercise its power under Order 16 CPC and ensure the production of relevant record by DW-2-Kultar Singh-Halqa Patwari so as to afford adequate and sufficient opportunity to the defendants for proving their defence raised in the written statement.

7. Accordingly, the learned trial Court is requested to grant two effective opportunities to the defendants for concluding their evidence from the date of production of relevant summoned record. The same shall be subject to payment of cost of Rs.20,000/- to be paid to the plaintiffs before the learned trial Court by the petitioner, on or before the next date of hearing.

8. It is also requested that the proceedings in the suit shall be expedited by the learned trial Court while considering the fact that the same is pending adjudication since 2013.

9. The present petition is disposed of in the aforesaid terms.

10. Pending application(s), if any, shall also stand disposed of.

18.08.2025

Tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>