

(2001) 03 P&H CK 0176

High Court Of Punjab And Haryana At Chandigarh

Case No: C.R. No. 5486 of 2000

Mohinder Singh Arora

APPELLANT

Vs

Harjit Kaur

RESPONDENT

Date of Decision: March 27, 2001

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 16 Rule 10, Order 17 Rule 3

Citation: (2001) 4 RCR(Civil) 390

Hon'ble Judges: Bakhshish Kaur, J

Bench: Single Bench

Advocate: B.S. Jaswal, for the Appellant; Gurminder Kaur, for the Respondent

Final Decision: Allowed

Judgement

Bakshish Karu, J.

There is delay of 17 days in filling this civil revision. The cause shown in the application supported by affidavit appears to be just and sufficient for condoning the delay. Hence, 17 days of delay is hereby condoned. C.M. is disposed of accordingly.

2. The petitioner's evidence was closed by order by the trial Court mainly on the ground that he had taken nearly 2-1/2 years to produce his evidence but failed to do so.

3. Adverting to the grounds of revision, the report of the Process Server, reproduced in para 8 of the grounds of revision, indicates that summoned witness Sain Dass Shanna was served for the date fixed. However, the impugned order is totally silent on this point. Whether this witness was present on that date or not? The trial Court should have been vigilant enough to look into this aspect of the case. Once a witness is ordered to be summoned, it becomes the duty of the Court to see that the process issued by it is duly served and the witness appears in Court. Since, he was served for the date fixed, then it was imperative upon the Court to procure the

presence of recalcitrant witness under Order 16 Rule 10 of the Code of Civil Procedure. By not following the procedure laid down therein, the trial Court was not justified in closing the evidence of the plaintiff.

4. For the aforesaid reasons, this civil revision is allowed. The impugned order is set aside. Since the plaintiff-petitioner has already taken sufficiently long time in producing the witness, therefore, he is required to compensate the other side. He is permitted to examine the witness Sain Dass Shanna, subject to payment of costs of Rs. 1000/-.

5. The trial Court is directed to afford only one opportunity to the petitioner to produce the witness and make his statement on the date to be fixed by it. In case he fails to produce his witness on the date fixed, the trial Court would be at liberty to pass necessary orders forthwith.

Parties through their counsel are directed to appear before the trial Court on 8.5.2001.

6. Revision allowed.