

**ORDER SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

C.R.No.279/2019

Mrs. Uzma Gul

**Versus**

Arsalan Ayaz

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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**10.07.2019    Mr. Ahmed Iqbal Maiken, Advocate for petitioner**

Through the instant civil revision petition, the petitioner, Mrs. Uzma Gul, impugns the order dated 01.07.2019, passed by the Court of the learned Senior Civil Judge, Islamabad, dismissing her application for summoning the postman who delivered/served the notice (*Talb-e-ishad*) through registered post on the respondent.

2. Learned counsel for the petitioner drew the attention of the Court to the list of witnesses filed by the petitioner and submitted that the postmaster, G.P.O., Rawalpindi was clearly mentioned in the said list as Court witness; that it was incumbent upon the learned Civil Court to have summoned the postman, who had served the *Talb-e-Ishad* on the defendant/respondent; that since the postmaster, who appeared before the learned Civil Court as PW-5 deposed that he was not concerned with the service of the said notice on the respondent; and that since the learned Civil Court had permitted the petitioner to file an application for the summoning of the postman, who had served the said notice on the respondent, the learned Civil Court could not have turned down her application for the summoning of the postman, who had done so. Learned counsel for the petitioner prayed for

the revision petition to be allowed in terms of the relief sought therein. In making his submissions, learned counsel for the petitioner placed reliance on the judgments reported as 2004 SCMR 1367, 1994 CLC 1920, 2016 CLC Note 127, 2013 MLD 323, 2016 CLC 1637 and 2006 YLR 666.

3. I have heard the contentions of the learned counsel for the petitioner and have perused the record with his able assistance.

4. The list of witnesses filed by the petitioner clearly mentions the postmaster, G.P.O., Rawalpindi as a Court witness. The record shows that the contact details of the official from the G.P.O., Rawalpindi to be summoned by the Court was provided by none other than the petitioner's husband. This is apparent from the order dated 01.07.2019 passed by the learned Civil Court. The relevant portion of the said order is reproduced herein below:-

*"Since this is a direction matter and the Post Master, GPO Rawalpindi is situated outside the territorial jurisdiction of this court, therefore, the undersigned/Presiding Officer asked Mr. Ahmed Iqbal Maiken to direct the plaintiff/husband of the plaintiff to assist the Process Server for service and ensure that service is made good on the relevant official. At that time husband of the plaintiff (Mr. Yusuf Gul) was also present in the Court and assured his full cooperation. On the next date Mr. Yusuf Gul provided the list specifically mentioned the name of Ali Javed N.T, Shafqat Cheema Patwari and Azhar Iqbal Post Master along with their telephone numbers. As such office was directed to issue Robkars on their request to Azhar Ali Post Master while Ali Javed and Shafqat Cheema were informed on their mobile numbers "*

5. In her subsequent application, the petitioner sought Zia-ur-Rehman, postman,

post office, village Osiah, Tehsil Murree District Rawalpindi, to be summoned as a Court witness. No explanation or good cause was advanced as to why the name of Zia-ur-Rehman was not given in the first list of witnesses filed by the petitioner. Since the details of the postmaster, G.P.O., Rawalpindi were provided by the petitioner's husband, who was pursuing the case, the petitioner cannot seek for another witness to be summoned from the G.P.O., Rawalpindi. In holding so, I derive guidance from the law laid down in the case of Mukhtiar Ali Shah Vs. Fazal Mir (2014 CLC 1487), the relevant portion whereof is reproduced herein below:-

*"9. In the instant case application for summoning witnesses through process of court is without mentioning any cogent reason and absolutely lack of "good cause" specially when the petitioner/plaintiff is pre-emptor and legally bound to prove factum of performance of Talb-e-Muwathibat and Talb-e-Ishhad in prescribed manner according to law within the time limit. Perusal of list of witnesses of the petitioner/plaintiff reveals that it was submitted through learned counsel for the petitioner/plaintiff and certainly he was conscious at the time of such submission of list that Clerk Post Office, Postman and Scribe of the Notice Talb-e-Ishhad were necessary to prove the factum or performance of talbs.*

*10. Since the pre-emption suit, under well-settled precedential law is more like criminal case, omission, howsoever fatal it may be, can be allowed to be supplied by means of amendment, addition, strike off, make up its default and delinquency"*

6. In view of the above, I do not find any merit in this petition which is accordingly dismissed with no order as to costs.

**(MIANGUL HASSAN AURANGZEB)  
JUDGE**

Qamar Khan\*