



CR-3485-2025 (O&M)

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

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CR-3485-2025 (O&M)
Reserved on:-11.09.2025
Pronounced on:- 15.09.2025

Gurdarshan Singh

....Petitioner

VERSUS

Pal Singh and Another

....Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Vipin Mahajan, Advocate for the petitioner.

Ms. Amandeep Kaur, Advocate for the respondents.

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MANDEEP PANNU J.

1. This order shall dispose of the present Civil Revision Petition filed under Article 227 of the Constitution of India, challenging the order dated 11.09.2019 passed by the learned Additional Civil Judge (Senior Division), Gurdaspur, whereby the application filed by the petitioner/defendant under Order IX Rule 13 read with Section 151 CPC for setting aside the ex parte judgment and decree dated 28.08.2015 was dismissed, and judgment dated 27.02.2025 passed in Civil Appeal No. 72/2022, titled as “Gurdarshan Singh Vs. Pal Singh and Another” by the learned Additional District Judge, Gurdaspur, dismissing the appeal preferred by the petitioner/defendant.

Brief Facts

2. The plaintiffs instituted a civil suit on 04.04.2014. Summons were issued to the petitioner/defendant for 17.05.2014. The Registered Cover was received back with a report of “incomplete address.” The learned trial Court, after

recording satisfaction that the defendant could not be served in the ordinary course,

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ordered substituted service through publication in the daily “Ashiana” (a Delhi Newspaper), which was effected on 25.07.2014. The defendant having failed to appear, was proceeded against ex parte and the suit was decreed on 28.08.2015.

3. The petitioner/defendant thereafter filed an application under Order IX Rule 13 CPC, pleading that he was never served with summons at his actual address, that the newspaper in which publication was made had no circulation in his locality, and that he remained unaware of the suit until he received summons in execution proceedings fixed for 5.11.2016. He accordingly prayed for setting aside the ex parte judgment and decree.

4. The respondents/plaintiffs contested the application, asserting that the defendant was duly served, was fully aware of the pendency of the suit, and deliberately chose not to appear. They emphasized that the newspaper in which publication was made had wide circulation, and that the non-appearance of the defendant was intentional and willful.

5. From the pleadings of the parties, the following issues were framed by the trial Court:

1. Whether there are sufficient grounds to set aside the ex parte judgment and decree as prayed for? OPA
2. Whether the application is not maintainable? OPR
3. Whether the applicant has not come to the Court with clean hands? OPR
4. Relief.

6. In support of his application, the petitioner examined himself as AW-1 and thereafter, closed his evidence.



7. On the other hand, Pal Singh, respondent/plaintiff, after appearing as RW-1, also closed his evidence.

Findings of the Courts Below

8. After considering the evidence, the learned trial Court held that the defendant had been validly served and that there were no sufficient grounds to set aside the ex parte judgment. The application was accordingly dismissed on 11.09.2019.

9. Aggrieved by the said order, the petitioner filed Civil Appeal No. 72/2022. The learned Additional District Judge, Gurdaspur, dismissed the appeal vide judgment dated 27.02.2025. The learned Appellate Court observed that the plea of non-service was not proved, and that the defendant had admitted in cross-examination that he had received summons on 3rd October, though he could not recall the year. The Court also noticed that the address on the registered cover was the same as the address where the defendant continued to reside. Though it observed that zimni orders were not proved by the defendant, in the later portion of the judgment the appellate Court did consider certified copies of the zimni orders and concluded that the learned trial Court had rightly recorded satisfaction before ordering substituted service.

10. Feeling aggrieved, the petitioner/defendant has filed the present civil revision petition.

11. Upon notice, respondents/plaintiff appeared and contested the same.

Submissions of learned counsel for the parties

12. Learned counsel for the petitioner/defendant has argued that both the Courts below erred in holding that he was aware of the pendency of the civil suit.

It is submitted that the alleged admission regarding receipt of summons on 3rd



October pertains not to the original suit, but to execution proceedings, and that the lower Courts wrongly relied upon this admission. It is further submitted that the zimni orders required no proof as they form part of the Court record. Reliance has been placed on *Subedar Amar Singh v. Avtar Singh, 2003 (3) RCR (Civil) 580*, and *Rachna Mahajan & another v. Devinder Kumar Mehta, 2018 (4) PLR 356*, to contend that mandatory procedure under Order V CPC was not complied with before ordering substituted service.

13. Conversely, learned counsel for the respondents/plaintiffs has supported the impugned orders, arguing that the defendant resides at the very same address where summons were issued in the civil suit as well as in the execution proceedings, that substituted service was duly effected after satisfaction recorded by the trial Court, and that the impugned orders suffer from no illegality.

Findings of this Court

14. Having heard learned counsel for both sides and upon careful perusal of the record, this Court is of the considered view that no ground for interference is made out.

15. It is correct that the learned Appellate Court wrongly relied on the admission of the petitioner about receipt of summons dated 3rd October, which admittedly pertained to execution proceedings and not the original civil suit. Even if this erroneous finding is ignored, there is ample evidence on record to show that the defendant was validly served in the civil suit. The Registered Cover was sent to his correct address, which he admits continues to be his present address. The trial Court, upon recording satisfaction, ordered substituted service by publication, which was duly effected.

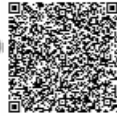


16. Similarly, though the learned Appellate Court initially observed that the zimni orders had not been proved by the defendant, in the later portion of its judgment it specifically discussed the certified copies of the zimni orders produced on record and, after examining the same, concurred with the learned trial Court's satisfaction that the defendant could not be served in the ordinary course and that substituted service under Order V Rule 20 CPC was justified. Thus, the reasoning of the learned Appellate Court, read as a whole, fully supports the finding that service was duly effected.

17. As regards the reliance on *Subedar Amar Singh's case (supra)*, the said judgment holds that unless the steps under Order V Rules 12, 15 and 17 CPC are exhausted, substituted service under Rule 20 cannot be resorted to. Similarly, in *Rachna Mahajan's case (supra)*, the Court found that the learned trial Court had not recorded satisfaction before ordering substituted service and that the address was not properly furnished. The present case is distinguishable on facts. Here, the learned trial Court did record its satisfaction after the registered cover was returned, and substituted service was ordered and carried out. The address used was the very same at which the defendant continues to reside and where he was later served in execution. Therefore, the judgments relied upon by the petitioner are inapplicable to the present case.

Conclusion

18. Both the learned trial Court and the learned Appellate Court have concurrently held that the petitioner was duly served and was fully aware of the proceedings. Their findings are based on material evidence and do not suffer from perversity or illegality warranting interference under Article 227 of the Constitution of India.



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19. Consequently, this Civil Revision Petition being devoid of merit is hereby dismissed.

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

September 15, 2025
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(MANDEEP PANNU)
JUDGE

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