

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CR No.1439 of 2015

Date of Decision:-27.02.2015

Jeet Singh & Anr.

.....Petitioner.

Versus

Gram Panchayat Mankrola & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Sanjay Vij, Advocate for the Petitioner.

JASWANT SINGH, J.(ORAL)

Plaintiff/Petitioner is in revision before this Court aggrieved against the order dated 19.01.2015 (P-1) passed by the learned Civil Judge(Jr. Divn.), Gurgaon whereby application under Order 9 Rule 13 CPC filed by respondent no.1 for setting aside ex-parte judgment and decree dated 18.10.2005 (P-2) has been allowed and consequently the judgment and decree dated 18.10.2005 has been set aside.

Learned Counsel for the petitioner has argued that the learned trial Court has wrongly held that the respondent no.1 was not served properly through its Sarpanch. Although it is apparent from the report of the process server that the Sarpanch had refused to receive the summons from the process server. In this view of the matter prayer was made for setting aside the impugned order dated 19.01.2015 (P-1).

After hearing learned Counsel for the petitioner and perusing the paper book, this Court is of the considered view that the present petition is

devoid of any merit and the same deserves to be dismissed.

It is apparent from the record that the then Sarpanch Daya Kaur was not effectively served upon as the summons were not got effected to the then Sarpanch as per the provisions of CPC. No summons through registered cover were ever sent to the said Sarpanch and the learned Court was right in observing that there was no order of substituted service which was ever got obtained by the present petitioner to ensure proper service upon the Sarpanch of Gram Panchayat, Mankrola, Tehsil and District Gurgaon.

As far as the second argument of the learned Counsel for the petitioner regarding the report of refusal as sought by the process server is concerned it is apparent that the provisions of Order 5 Rule 17 CPC were never complied with as no copy of the plaint was ever attached with the summons neither there was any affixation on the residential house of the then Sarpanch. Moreover, PW-1 Zile Singh, whose thumb impression had been obtained by the concerned process server on the summons showing the refusal of the then Sarpanch in his presence as himself stated that no refusal was ever made by the then Sarpanch on any summons in his presence in case titled as Jit Singh Vs. Gram Panchayat. Under these circumstances, the argument raised by the learned Counsel for the petitioner is not only misconceived but also completely contrary to the record and in view of this, no infirmity or illegality is found in the order passed by the learned trial Court which is hereby affirmed.

In view of the above, finding no merit in the present revision petition the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

February 27, 2015
Vinay