

IN THE HIGH COURT OF PUNJAB AND HARYANA, AT
CHANDIGARH

CR No. 1346 of 2013

Date of Decision: 03.03.2015

Capt. Kalash Singh through his LRs

.....Petitioner

Vs.

Smt. Kela Devi and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Vijay Kumar Sheoran, Advocate,
for the petitioner.

Mr. Ramender Chauhan, Advocate,
for respondents No. 1 and 3 to 6.

Mr. D.P. Gupta, Advocate,
for respondent No. 14.

SABINA, J.

Petitioner has filed this petition challenging the order dated 21.01.2013 (Annexure P-6), whereby an application moved by the petitioner for setting aside the ex parte award dated 29.08.2009, was dismissed.

Learned counsel for the petitioner has submitted that the petitioner had no knowledge of the pendency of the claim petition against him. In fact the claimants were aware of the correct address of the petitioner but had failed to furnish the same before the Tribunal. During the execution proceedings, the claimants had furnished the correct address of the petitioner and on account of service upon him, petitioner came to know about the passing of the award against him.

Learned counsel for respondents No. 1, 3 to 6, on the other hand, has opposed the petition and has submitted that various efforts were

made to effect service on the petitioner but ultimately service was effected on the petitioner through publication in the newspaper but he failed to appear before the Tribunal.

Claimants had filed claim petition against the petitioner and others, seeking compensation on account of death of Kishan, in the motor vehicle accident. The case of the claimants was that the petitioner and Pawan Kumar, were owners of the offending Jeep. A perusal of the interim orders, reproduced in the petition, reveal that on various occasions, efforts were made to effect service on the petitioner. A perusal of the interim orders from 02.09.2006 onwards reveal that notices could not be issued to respondent No. 3 for want of correct address. Thereafter, claimants moved an application for effecting service on the petitioner through publication and the said application was allowed and service was effected on the petitioner through publication in the Newspaper "Dainik Chetna". Petitioner, however, failed to appear before the Tribunal despite his service through publication. Hence, left with no other alternative, the trial Court ordered that the petitioner be proceeded exparte.

In these circumstances, the learned Tribunal rightly dismissed the application, moved by the petitioner under Order 9 Rule 13 of Code of Civil Procedure, for setting aside the order dated 21.04.2007 whereby he was proceeded exparte and the award dated 29.08.2009 as petitioner had failed to appear before the trial Court despite service.

No ground for interference is made out.

Dismissed

**(SABINA)
JUDGE**

March 03, 2015
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