

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 5199 of 2014
Date of Decision: 21.4.2015.**

Food Corporation of India

.....Petitioner

Versus

M/s Mahadev Traders, Kurukshetra and othersRespondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Atul Gaur, Advocate for
Mr. Sumeet Goel, Advocate
for the petitioner.

Mr. Kamal Gupta, Advocate
for the respondents.

SABINA, J.

Petitioner has filed this petition under Article 227 of the Constitution of India challenging the order dated 5.4.2014 (Annexure P-9) whereby *ex parte* judgment/decree passed against the respondents, was set aside by the Appellate Court.

Petitioner-corporation had filed suit for recovery against the respondents. The said suit was decreed in *ex parte* vide judgment/decree dated 5.8.2000. Respondents moved an application under Order 9 Rule 13 of the Code of Civil Procedure, 1908 ('CPC' for short) for setting aside the *ex parte* judgment/decree dated 5.8.2000. The said application was dismissed by the Trial Court vide order dated 22.2.2012. However, in appeal, the Appellate Court allowed the application filed by the respondents under Order 9 Rule 13 CPC vide the impugned order

dated 5.4.2014 (Annexure P-9). Hence, the present petition by the petitioner.

I have heard the learned counsel for the parties and have gone through the record available on the file carefully.

In the present case, efforts were made to serve the respondents by the Trial Court. It is not a case where the respondents had refused to accept service. Rather, correct addresses of the respondents were not furnished by the corporation and they were ordered to be served through substituted service. The case of the respondent is that they had no knowledge of the pendency of the proceedings against them. However, on coming to know about the passing of the decree against them, respondents moved the application under Order 9 Rule 13 CPC for setting aside the *ex parte* decree against them. It has transpired during the course of arguments that respondents have already furnished indemnity bonds with one surety in the like amount qua the decretal amount to show their *bona fide* and the property of the respondents already stands attached. Since the *ex parte* proceedings against the respondents have been set aside, the dispute between the parties will be disposed of on merits.

In the facts and circumstances of the present case, no ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

April 21, 2015
Gurpreet