

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

CR No.6915 of 2015 (O&M)

Date of Decision: November 03, 2015

Varinder Kaur Garcha

.... Petitioner

vs.

Mohinder Kaur Sibia (deceased) through LRs and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. A.S. Kalra, Advocate for the petitioner.

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

CM-23167-CII-2015

Application is allowed as prayed for.

Annexures A-1 and A-2 are taken on record.

CR-6915-2015

Arguments heard.

Impugned in the present revision petition is the judgment dated 10.08.2015 passed by learned Addl. Civil Judge (Sr. Divn.), Ludhiana, vide which the application filed by the respondent under Order IX, Rule 13 read with Section 151 CPC was allowed and the judgment and decree dated 16.10.2006 passed by learned Civil Judge (Jr. Divn.), Ludhiana in suit No.223 of 05.09.2005 titled as "Varinder Kaur vs Mohinder Kaur etc. for declaration was set aside.

Consequently, the suit was restored and ordered to be decided on merits.

Learned counsel for the petitioner has argued that and the judgment and decree was passed on 16.10.2006 and the application was filed on 17.05.2008 and the same is time barred.

A perusal of the impugned judgment shows that both the parties have filed the pleadings; issues were framed and thereafter, after recording the evidence, the findings were recorded and it was found by the lower court that there was no proper service in this case. These are the findings of facts and this Court is not inclined to interfere in the findings of facts. The lower court has ordered that the case should be decided on merits. Since the suit was ordered to be decided on merits on the application of the other defendants, therefore, there is nothing illegal, if the present respondent-applicant is also heard. There is no illegality or infirmity in the impugned order.

Hence, the present revision petition stands dismissed.

November 03, 2015
sarita

(KULDIP SINGH)
JUDGE