

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.2030 of 2016
Date of decision:06.05.2016

Chandan Mal Chauhan @ Bagri ... Petitioner

Vs.

Laxmi ... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Sushil Jain, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The petitioner-plaintiff is aggrieved of the impugned order dated 29.02.2016, whereby, ex parte proceedings dated 04.03.2011 in a petition filed under Section 25 of the Guardianship and Wards Act, have been set aside.

Mr. Sushil Jain, learned counsel appearing on behalf of the petitioner-plaintiff submits that summons of petition was issued by the concerned Court to the respondent for appearance on 15.05.2009. As per the report of Process Server, the respondent refused to accept the summons. On the basis of the aforementioned report, the Court ordered for publication in the newspaper which was effected on 07.02.2011 at Sonipat address given in the petition. Having failed to appear, the Court initiated the ex parte proceedings.

Thereafter, ex parte judgment and decree dated 06.01.2012 was passed. It is only in execution proceedings, the respondent acquired the alleged knowledge on 01.08.2013 when she received the summons, wherein, the Delhi address had been given. He further submits that respondent had also filed an FIR bearing No.37 dated 20.03.2003 under Sections 323, 452 and 506 of the Indian Penal Code registered at Police Station Kharkhoda, Sonipat, whereas, she has been given address of Sonipat, therefore, the stand taken in the application seeking setting aside of the ex parte proceedings was based upon false and incorrect averments. All these facts have not been noticed by the Court below, thus, order under challenge is not sustainable in the eyes of law.

I have heard learned counsel for the petitioner-plaintiff and appraised the paper book.

It is undisputed fact that there is a dispute between the petitioner and respondent being husband and wife. The ex parte divorce petition filed at the instance of the respondent-wife, has been decreed. The dispute has arisen with regard to the custody of the minor child, whereas, petitioner-husband has instituted the aforementioned proceedings but the fact remains that publication and refusal of summons were issued at Sonipat address, but she already left Sonipat and was residing at Delhi. Even in the statement given in the criminal case, her address is of some village in Hisar. Thus, in my view, the respondent was not residing at Sonipat address where

summons were issued for appearance on 15.05.2009, therefore, the publication caused in the newspaper was also in Sonipat and the trial Court ought to have called upon the petitioner to furnish the correct address by recording some satisfaction.

Keeping in view the aforementioned observations, no ground is made out for interference in the impugned order. However, direction is issued to the trial Court for expeditious disposal of the petition filed under Section 25 of the Guardianship and Wards Act, preferably within a period of one year from the date of receipt of certified copy of this order.

Accordingly, revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

May 06, 2016
savita