

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

-.-

CR 3346 of 2014 (O&M)
Date of decision: 10.03.2016

Paramjeet Singh

..... Petitioner

Versus

Kuldeep Kaur and others

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Harkirat Sandhu, Advocate
for the petitioner

Mr. Ashok K Sharma, Advocate
for respondent No. 1

Mr. Aakash Singla, Advocate
for respondents No. 2 and 4

-.-

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

Rekha Mittal, J. (Oral)

The present petition has been directed against the orders dated 12.12.2009 (Annexure P1) and dated 11.04.2014 (Annexure P2) whereby the petitioner has been proceeded against ex-parte and his application for setting aside ex-parte proceedings, has been dismissed respectively.

Counsel for the petitioner contends that Kuldeep Kaur-respondent No. 1 has filed a suit for declaration and possession to the extent of 1/3rd share in the suit property against Jagdish Singh and others in which the present petitioner has been arrayed as defendant No. 2. The petitioner

was proceeded against ex-parte vide order dated 12.12.2009 and an application filed by him for setting aside ex-parte proceedings in March 2014 has been dismissed by the trial Court without appreciating that the petitioner was not residing at the given address i.e. House No. B-21/167, Chhoti Baradari, Near Malwa Cinema, Patiala, therefore, he was not duly served. It is further submitted that the petitioner is a resident of House No. 307, Phase VI, SAS Nagar, Mohali since the year 2006 and thus, there was no occasion of his being served at the address given in the suit. The petitioner came to know about pendency of the proceedings on 25.02.2014 when he appeared in the Court in connection with suit titled '*Charanjit Kaur v. Jagdish Singh and others*' fixed at serial No. 24 in the cause list of that day and the suit titled *Kuldeep Kaur alias Kuki v. Jagdish Singh and others* was fixed at serial No. 61 in the cause list. It is further submitted that a serious prejudice is likely to be caused to the petitioner in case he is not allowed to join proceedings from the stage he was proceeded against ex-parte by enabling him to file the written statement and adduce evidence though he is ready to do the needful within the shortest possible period.

Counsel for respondent No. 1 (contesting respondent), on the contrary, has supported the impugned orders with the submissions that in the application filed by the petitioner, no such plea has been raised that the summons issued by the trial Court for his service for 12.12.2009 does not bear his signatures. It is further submitted that the other defendants in the case namely Jagdish Singh, Jaswant Kaur and Charanjit Kaur are the family members of the petitioner being his brother, mother and sister respectively. It is not plea of the petitioner that he does not have cordial relations or visiting terms with Jagdish Singh and others and that is sufficient to belie

his plea that he did not come to know about pendency of the suit at any time prior to February 2014. Another submission made by counsel is that during interregnum period with effect from December 2009 till March 2014, the parties have already completed their evidence and the case has reached the stage of hearing on merits. The last submission made by counsel is that the application filed by the petitioner is nothing but a clever devise to delay decision of the case in which the plaintiff has claimed possession of the suit property.

Counsel for respondents No. 2 to 4 has nothing to say in the matter.

I have heard counsel for the parties, perused the records and find no merit in the petition.

As per report on the process issued by the Court for service of petitioner/defendant No. 2, the serving official made a report in regard to personal service of the petitioner and an endorsement in this regard with signatures of the petitioner dated 07.12.2009. The petitioner in the application has not raised any plea that endorsement dated 07.12.2009 does not bear his signatures or his purported signatures are forged one. Similarly, the petitioner has not averred that his other family members namely Jagdish Singh and others arrayed as defendants do not maintain cordial relations with him in order to rule out possibility of his gaining knowledge of pendency of the proceedings. Above all, it is none of the plea of the petitioner that his other family members, a party to the suit have an interest adverse to the petitioner. In the given facts and circumstances, I find merit in the contention of respondent No. 1 that the application filed by the petitioner is nothing short of abuse and misuse of process of law and a

clever attempt to delay the outcome of the suit pending in the Court since 2008 wherein the plaintiff/respondent No. 1 is claiming possession to the extent of 1/3rd share in the suit land measuring 58 *bighas* 19 *biswas*. In view of what has been discussed here-in-above, finding no merit, the petition is dismissed with compensatory costs of Rs.10,000.00 to be deposited with the High Court Legal Service Committee, Chandigarh.

Before parting with this order, it is pertinent to mention that the petitioner has paid an amount of Rs.10,000.00 to counsel for respondent No. 1 in compliance with the order dated 27.01.2016. Counsel for respondent No. 1 would place on record the receipt obtained from Kuldip Kaur - respondent No. 1.

(Rekha Mittal)
Judge

10.03.2016
mohan bimbira