

CR No.6275 of 2016

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

**CR No.6275 of 2016
Date of Decision: 22.09.2016**

Jasminder Kaur

.....Petitioner

Versus

Tarsem Singh and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Devinder Chaudhary, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner-defendant No.2 has assailed order dated 16.08.2016 passed by Civil Judge (Junior Division), Ambala whereby an application for setting aside the ex parte order dated 12.12.2014 was dismissed.

[2]. Learned counsel for the petitioner contends that petitioner-defendant No.2 was illegally proceeded against ex parte on 12.12.2014 without there being any lawful service upon her. Petitioner was neither served through ordinary means of process, nor by way of substituted service in any manner.

[3]. Inference has been drawn by the trial Court that in an

CR No.6275 of 2016

application for transfer of the case from one Court to another at the instance of the plaintiff on the ground that in respect of same property, two sale deeds were pending in different Courts and the order dated 23.01.2014 passed by District Judge, Ambala, the another suit titled as Tarsem Vs. Lt. Col Rajinder Singh and others was withdrawn from the Court of Civil Judge (Senior Division), and was transferred to the trial Court, would serve the purpose of service upon the petitioner.

[4]. Perusal of the impugned order reveals that no finding has been recorded with regard to service of summons on the petitioner by any mode of service.

[5]. In my considered view the order passed by the trial Court is totally non-speaking with regard to factum of service of summons upon the petitioner. In view of nature of order which this Court proposes to pass, there is no necessity of issuing notice to the respondent as no prejudicial order to the interest of the parties is being passed.

[6]. In view of non-speaking nature of the order, the trial Court can be asked to pass fresh order depicting the factum of service upon the petitioner as per record. Trial Court would be obligated to decide the matter afresh within one month from the date of receipt of certified copy of the order after giving lawful opportunities to both the sides to address arguments in

CR No.6275 of 2016

application under Order 9 Rule 7 CPC.

Disposed of.

September 22 2016

Prince

**(RAJ MOHAN SINGH)
JUDGE**

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No