

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA No.475 of 2012

Date of decision: 31.03.2016

Reetu Bala @ Ritu Bala and anr.

... Applicants

Vs.

Bholi

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: None.

RAMESHWAR SINGH MALIK, J. (ORAL)

Applicants, by way of instant application under Section 24 of the Code of Civil Procedure, seek transfer of Civil Suit for Mandatory Injunction from Gurdaspur to Jalandhar.

Notice of motion was issued vide order dated 07.09.2012 and interim order was passed.

When service was not complete vide order dated 03.11.2012, applicants were permitted to serve the respondent by way of dasti process as well as through his counsel before the learned trial Court. Since service was not complete, fresh notice was issued vide order dated 11.01.2013. Again, vide order dated 22.03.2013, fresh notice was issued and dasti process was also permitted. Since after 03.11.2012, neither anybody had ever appeared on behalf of the applicants nor service on the respondent was being effected, instant application came to be dismissed in default vide order dated 14.05.2013, which reads as under: -

“Petitioners have filed the present petition seeking the transfer of Civil Suit for Mandatory Injunction filed by the respondent titled as “Bholli Vs. Reetu Bala and anr.” from the Court of learned Civil Judge (Sr. Divn.), Gurdaspur to the Court of competent jurisdiction at Jalandhar.

The respondent remains unserved till now. On the last two dates none had appeared on behalf of the petitioners. Same is the position today. It appears that petitioners are not interest in pursuing their petition.

Dismissed in default.”

Applicants moved CM No.11838-CII of 2013 for restoration of the transfer application and the said application was allowed by this Court on payment of Rs.1,000/- as costs vide order dated 20.05.2013 and the case was ordered to be listed on 06.08.2013. Thereafter, vide order dated 06.08.2013, fresh notice through dasti process was issued. However, respondent still remained unserved and none appeared on behalf of the applicants on 30.10.2013 when fresh notice was issued to the respondent for 21.01.2014. On 21.01.2014, learned counsel for the applicants undertook to furnish the correct address and fresh notice was issued for 18.08.2014. Neither the correct address was furnished nor anybody appeared on behalf of the applicants on the next date of hearing and the case was adjourned to 04.11.2014.

Again on 04.11.2014, learned counsel for the applicants made a request for granting dasti process. The said request was granted. However, it was made clear that it would be last opportunity to serve the respondent

failing which the transfer application shall be deemed to have been dismissed for non-prosecution. Vide this order dated 04.11.2014, the case was adjourned to 16.03.2015, however, service was still not complete. None appeared on behalf of the applicants on 16.03.2015. The case was adjourned to 08.04.2015 and dasti process was again permitted. As per order dated 08.04.2015, learned counsel for the applicants did not collect the dasti process. He expressed some personal difficulty before the Bench. Fresh notice was ordered to be issued for 20.07.2015. Since learned counsel for the applicants did not furnish the correct address of the respondent, fresh notice could not be issued in compliance of the abovesaid order dated 08.04.2015. In the interest of justice, one more opportunity was granted subject to payment of Rs.2,500/- as costs. Dasti process was also permitted. However, it was made clear that no further opportunity shall be afforded. When the case was taken up for hearing on 30.11.2015, none appeared.

As per office report dated 28.03.2016, neither the learned counsel for the applicants has taken any steps to serve the respondent nor the cost of Rs.2,500/- has been paid in compliance of the order dated 20.07.2015.

Case has been called twice. Neither anybody has come present nor any request for pass over has been made. It seems that applicants are no more interested in pursuing the instant transfer application.

Dismissed for non-prosecution.

[RAMESHWAR SINGH MALIK]
JUDGE

31.03.2016
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