

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

CR No.1270 of 2017.

Date of Decision: 06.03.2017.

Jaswant Singh

....Petitioner.

VERSUS

Jaswinder Singh and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Liaqat Ali, Advocate for the petitioner.

SNEH PRASHAR, J.

The petitioner is aggrieved of the order dated 21.04.2016 passed by learned Civil Judge (Junior Division), Patti, by virtue of which the application filed by respondents No.1 to 6 under Order IX Rule 13 read with Section 151 of the Civil Procedure Code was allowed and the exparte orders passed by trial Court against the said respondents were set aside subject to costs of Rs.5000/-.

The submissions made Mr. Liaqat Ali, learned counsel representing the petitioner have been considered.

Learned counsel for the petitioner submits that respondents No.1 to 6 were duly served by way of publication of notice in newspaper 'Rozana Chardhikala', Patiala, but none appeared on their behalf and therefore, they were proceeded against exparte and an exparte judgment and decree dated 09.11.2015 was passed against them. The application for

setting aside the exparte decree was filed by the respondents much after the lapse of limitation period and learned trial Court legally erred in allowing the same.

On perusal of the impugned order, it transpires that the ground, on which the respondents sought setting aside of the exparte decree/ order, was that their parentage, address etc. were wrongly mentioned in the title of the suit with a motive to avoid personal service of notice on them. It is not mentioned in the impugned order and learned counsel for the petitioner could also not produce any document to show either that the summons issued by the trial Court had reached the respondents or that they had refused to accept the service. Rather, it was noticed by learned trial Court in the impugned order that name of one of the respondents was mentioned as 'Darshan Singh' instead of 'Dharam Singh' and the address of the respondents was wrongly mentioned as 'Sandhpura' instead of 'Bikhiwind'. When apparently there was an error intentional or unintentional in stating the name and address of the respondents-defendants, the service of notice on them through substituted service was illegal and from that it follows that the exparte judgment and decree passed against the respondents-defendants could not be left to sustain.

The impugned order suffers from no illegality or perversity and calls for no intervention. Accordingly, the petition is dismissed.

(SNEH PRASHAR)
JUDGE

06.03.2017.
jitender sharma

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**