

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.1291 of 2017 (O&M)
Date of decision: 02.03.2017

Zile Ram (deceased) through LR and another

... Petitioners

Vs.

Dharam Narain (deceased) through LRs and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. R.S. Sihota, Sr. Advocate with
Mr. B.R. Rana, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the impugned judgment passed by the learned Additional District Judge, whereby the order dated 18.01.2014 passed by the learned trial Court, dismissing the application of defendants-respondents under Order 9 Rule 13 read with Section 151 of the Code of Civil Procedure ('CPC' for short), was set aside, plaintiffs have approached this Court by way of present revision petition.

Heard learned senior counsel for the petitioners.

It has gone undisputed before this Court that the defendants who were originally residents of Village Meerpur, were no more living in that village, as they had shifted to Ganga Nagar. Knowing fully this fact, the

plaintiffs-petitioners still impleaded the defendants showing them to be residents of village Meerpur, which was a factually wrong averment taken by the plaintiffs. Defendants were sought to be served by way of substituted service, but on the same address of village Meerpur itself. Since there was no scope of acquiring any knowledge about the present litigation by the defendants, because they were living in Ganga Nagar, they could not come to know about pendency of suit at earlier point of time. Suit of the plaintiffs came to be decreed ex-parte. Having come to know about ex-parte decree, defendants immediately filed their application under Order 9 Rule 13 read with Section 151 CPC seeking setting aside of the order, whereby they were proceeded against ex-parte and also the ex-parte judgment and decree passed against them, by the learned trial Court. However, said application moved by the defendants was dismissed by the learned trial Court, vide its judgment dated 18.01.2014. Dissatisfied, defendants filed their first appeal, which came to be allowed by the learned Additional District Judge vide impugned judgment dated 09.01.2017. Hence this revision petition at the hands of the plaintiffs.

Learned senior counsel for the petitioners could not substantiate any of his arguments. In fact, a bare reading of para 18 of the impugned judgment would make it crystal clear that it were the plaintiffs-petitioners, who incorrectly shown the defendants to be residents of village Meerpur, in spite of the fact that they had left said village long back and had started living at Ganga Nagar. Under this undisputed fact situation obtaining on the record of the present case, it can be safely concluded that the learned Additional District Judge was well within his jurisdiction to allow the appeal of the defendants-respondents herein and the impugned judgment deserves to be upheld.

It is the settled proposition of law that rules of procedure are meant for advancing the cause of justice. Further, every Court of law must make an endeavour to grant reasonable opportunity to both the parties to the litigation to put up their respective best cases before the Court. No party to the litigation should be forced to go home with the grievance that it was not granted due opportunity to put up its best case. While proceeding on this principle of law, the learned Courts would be achieving twin objects; firstly, they would be avoiding multiplicity of litigation and secondly, the learned Court would be in a much better position to do complete and substantial justice between the parties. It is equally true that while doing complete and substantial justice, technicalities must not be allowed to stand in the way of imparting justice.

Reverting to the peculiar facts and circumstances of the case in hand, referred to hereinabove, it is unhesitatingly held that passing of ex-parte decree had caused a manifest injustice to the defendants-respondents herein. It is so said because firstly, they were impleaded showing them to be residents of village Meerpur, which was factually incorrect. Secondly, they were sought to be served by way of substituted service again on that very address of village Meerpur, which was of no use. In this regard, adverse inference was liable to be drawn against the plaintiffs-petitioners herein, because being the residents of same village, petitioners were well aware that the defendants had already left village Meerpur long back and had started living at Ganga Nagar. In this view of the matter, the defendants were, as a matter of fact, sought to be condemned unheard, thereby glaringly violating the basic principles of natural justice. When the impugned judgment is to be examined in the light of abovesaid facts of the present case, it becomes clear that the learned Additional District Judge

committed no error of law, while passing the impugned judgment and the same deserves to be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the present revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present revision petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

02.03.2017
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No