

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

CR No.1615 of 2017.

Date of Decision: 06.03.2017.

Balbir Singh

....Petitioner.

VERSUS

Basant Singh and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. N.S. Sodhi, Advocate for the petitioner.

SNEH PRASHAR, J.

By way of instant petition filed under Article 227 of the Constitution of India, the petitioner has sought quashing of order dated 29.11.2016 by virtue of which the prayer of the petitioner for service of notice on the respondents-defendants was declined. Also, quashing of order dated 26.09.2013 is sought vide which the suit against the L.Rs. of respondent No.2-defendant No.2 was dismissed by learned trial Court.

The submissions made Mr. N.S. Sodhi, learned counsel representing the petitioner have been considered.

The impugned order indicates that the petitioner filed an application for service of legal representatives of deceased respondent/defendant No.1, legal representatives of deceased respondent/defendant No.2 and for defendant No.4 who were impleaded as party to the suit filed by the petitioner. Perusal of the impugned order dated 29.11.2016 shows

that the suit against legal representatives of respondent-defendant No.2 was dismissed vide order dated 26.09.2013. Admittedly, no revision or appeal was filed by the petitioner against that order within the limitation period and the order had become final between the parties and that order could not be recalled simply on an application filed by the petitioner after two years to issue notice to the said defendants. As regards, notice to legal representatives of respondent-defendant No.1, it was mentioned that they had been proceeded against exparte. Therefore, fresh notice to them was not required. Respondent-defendant No.4 had appeared through counsel.

Thus, the application filed by the petitioner for issuing notice to the legal representatives of respondents-defendants No.1 and 2 was not maintainable and was rightly dismissed by learned trial Court vide the impugned order dated 29.11.2016. At this stage, there appears no ground or justification for setting aside the order dated 26.09.2013 passed by learned trial Court. There being no illegality or perversity in the orders passed by learned trial Court, the petition is dismissed.

(SNEH PRASHAR)
JUDGE

06.03.2017.
jitender sharma

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

Whether Reportable : **Yes/ No**