

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.2140 of 2017

Date of Decision: 12.07.2017

Darshan Singh and others

... Petitioners

Versus

Gram Panchayat of village Machhike

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Vikas Gupta, Advocate,
for the petitioners.

RAJIV NARAIN RAINA, J.

1. The plaintiffs have approached this Court by way of this revision under Article 227 of the Constitution assailing the order of the Civil Judge (Junior Division), Patti allowing the application of the defendant for setting aside the ex parte judgment and decree.

2. The trial Court has come to the conclusion after pursuing the original file that defendant-Gram Panchayat was ordered to be summoned through notice and the report of the process server on the summons revealed that they were served through the husband of the present Sarpanch. Personal service was not effected. On the basis of this report that the respondent-Gram Panchayat was proceeded against ex parte on the same day i.e. July 31, 2013. The trial Court came to the conclusion that there is nothing on record to show that defendant-Gram Panchayat was ever served through competent person. The admitted position was that Chattarpal Singh was not Sarpanch of the Gram Panchayat at the time of service of summons.

Therefore, documents produced before the trial Court in the application

under Order 9 Rule 13 CPC show that the version of due service of applicant/defendant is not proved. The dispute is between plaintiff and the Gram Panchayat; one assailing while the other denying ownership of the suit property. The suit is only for permanent injunction but the ex parte judgment and decree declares plaintiffs owners in possession of the land in dispute.

3. The learned Civil Judge (Junior Division), Patti in her order dated December 22, 2016 has committed no mistake in allowing the application by setting aside the ex parte order and decree paving the way for a contest on merits. Justice has been done and I find absolutely no reason to interfere in this revision which is ordered to stand dismissed. Trial to proceed.

(RAJIV NARAIN RAINA)
JUDGE

12.07.2017

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Whether speaking/reasoned Yes

Whether reportable No