

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CR No.2310 of 2017
Date of decision:30.3.2017**

Manjit Kaur and others

...Petitioners

Versus

Dilbar Singh @ Dalveer Singh Basi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Amit Mehta, Advocate for the petitioners.

RAMESHWAR SINGH MALIK, J. (Oral)

Present revision petition filed by the plaintiffs under Article 227 of the Constitution of India, is directed against the order dated 27.1.2017 passed by the learned trial Court, whereby application, under Order 9 Rule 13 of the Code of Civil Procedure, moved by defendant-respondent No.4-Dilbagh Singh son of Piara Singh, was allowed by the learned trial Court and the ex parte judgment and decree dated 23.2.2010 was also set aside, duly compensating plaintiff-petitioner No.1.

Heard learned counsel for the petitioners.

A bare perusal of the impugned order and particularly para 16 thereof would make it crystal clear that it was plaintiff-petitioner No.1 namely Manjit Kaur, who admitted in her cross-examination that defendant-respondent No.4/Dilbagh Singh was born in England. She further admitted in her cross-examination that when she filed the suit, respondent-Dilbagh Singh was residing in England. It is also a matter of record that plaintiff did

not mention even a word in this regard in their plaint and they impleaded defendant N.4 as a resident of village Mehsampur, Tehsil Phillaur, District Jalandhar. Further, plaintiff sought to serve defendant-respondent No.4 -Dilbagh Singh by way of publication and that too at village Beer Bansian, whereas defendant No.4, was resident of Village Mehsampur. Having said that, this Court feels no hesitation to conclude that the learned trial Court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

It is the settled principle of law that nobody should be condemned unheard. In the present case, at the time of decreeing the suit of the petitioners-plaintiffs ex parte vide judgment and decree dated 23.2.2010, defendant-respondent No.4-Dilbagh Singh was not at all served, in accordance with law, thereby glaringly violating the basic principle of *audi alteram partem*. In fact, the plaintiffs concealed the material fact from the notice of the Court that defendant-respondent/Dilbagh Singh was resident of England nor any attempt was made to serve him at his address of England. Under these undisputed facts and circumstances of the case, it can be safely concluded that the learned trial Court committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order passed by the learned trial Court, which may warrant interference, at the hands of this Court, while exercising its revisional jurisdiction under Article

227 of the Constitution of India. In fact, the impugned order has been found duly supported by sound reasons and the same deserves to be upheld, for this reason as well.

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 instant 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 above-said observations made, the present revision petition stands dismissed, however, with no order as to costs.

30.3.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No