

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

CR No. 4142 of 2016
Date of Decision: 29.08.2017

GRAM PANCHAYAT VILLAGE BRAHMAN

-PETITIONER

VS

RAJBIR

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Rajinder Sharma, Advocate,
for the petitioner.

Mr. Gaurav Arora, Advocate for
Mr. Yogesh Chaudhary, Advocate
for the respondent.

RAJ MOHAN SINGH, J. (ORAL)

1. After hearing this case for some time, it has been found that the Civil Suit was filed on 11.05.2016. Notice was issued for 12.05.2016 and on that very day, the defendant was proceeded against ex-parte on the report of process server showing that the husband of the Sarpanch has refused to accept summons. The compliance was not done by the process server in terms of affixation of summons on some conspicuous place followed by recording of statement of some witness to the affixation.

2. An application was filed promptly on 17.05.2016 for setting aside the ex-parte proceedings and the same was also dismissed by the trial Court on 17.05.2016.

3. It appears that the trial Court has acted illegally on 12.05.2016. The application filed by the plaintiff under Order 39 Rule 1 and 2 CPC was allowed by the trial Court vide the composite order. Since there was total non-compliance of Order 5 Rule 17 CPC, therefore, order dated 12.05.2016 is liable to be set aside. As a natural consequence of setting aside the order dated 12.05.2016, all subsequent proceedings arising therefrom are also set aside including the order dated 17.05.2016. The plaintiff may seek fresh decision on his application under Order 39 Rule 1 and 2 CPC in accordance with law.

4. Disposed of accordingly.

29.08.2017
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(RAJ MOHAN SINGH)
JUDGE

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