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

Civil Revision No.419 of 2017

Date of decision: 23.01.2017

Bijender Singh

...Petitioner

Versus

Gordhan (deceased) through L.Rs and others

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Adarsh Jain, Advocate for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The plaintiff has challenged the order dated 16.11.2016 passed by the Civil Judge (Junior Division), Palwal where on account of non appearance of legal representatives No.(iii) & (iv) of defendant no.1, namely, Sunita and Happy respectively, the application was dismissed under Order 9 Rule 2 CPC.

Counsel for the petitioner/plaintiff submits that suit for specific performance was filed on 6.4.2013 against three defendants. On account of death of defendant no.1-Gordhan, an application was filed for bringing on record his legal representatives on 13.3.2015 (Annexure P/3), the details of which were given in the application. It is submitted that out of five legal representatives, three were duly served and only the above two could not be served.

While passing the impugned order, it was noticed that several opportunities were given to the plaintiff to get service effected, however, service could not be effected due to fault of the plaintiff. The trial Court instead of dismissing the application/suit qua aforesaid two legal

representatives, ordered the file itself to be consigned to the record room. It is accordingly contended that qua other defendants the file was not liable to be consigned to record room.

Keeping in view the above, this Court is of the opinion that it is open to the petitioner/plaintiff to file an appropriate application before the Court concerned. If the petitioner/plaintiff files such application within a period of four weeks from today, the trial Court shall take up the same and pass a fresh order on the same and recall its earlier order if so required.

With the aforesaid observations, the present revision petition is disposed of.

January 23, 2017
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No