

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

**CR No.5063 of 2016(O&M)  
Date of Decision: 14.07.2017**

Gurmail Singh and others .....Petitioners  
Versus

Guljar Singh and others ... Respondents

**CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present:Mr. Harvinder Singh Mann, Advocate  
for the petitioners.

Mr. G.C. Garg, Advocate  
for respondent No.15.

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**RAJ MOHAN SINGH, J.(ORAL)**

[1]. Petitioners have assailed the order dated 14.07.2016 passed by Additional Civil Judge (Senior Division), Sardulgarh, District Mansa, vide which suit was dismissed qua defendant No.12 under Order 9 Rule 2 CPC.

[2]. Respondent No.12 has been served through publication, but none has appeared on her behalf.

[3]. Learned counsel for the petitioner submitted that in the suit itself, two addresses of respondent No.12 were given. She was sought to be served vide order dated 10.03.2016 for 05.04.2016. On 05.04.2016, the Court did not record anything in respect of service of respondent No.12. Only defendants No.2, 4, 8, 15 and 16 were proceeded against *ex parte* and defendants No.1 and 2 were sought to be summoned on filing correct addresses. The case was adjourned for 03.05.2016. It

was only in the order dated 03.05.2016, defendant No.12 was sought to be summoned on filing correct address for 19.05.2016. Last opportunity was granted to the plaintiff to do the needful. Vide order dated 19.05.2016, it was recorded that the summon issued to respondent No.12 was received back unserved as she was not found residing on the given address. Plaintiff was directed to file correct address of respondent No.12 and thereafter, defendant No.12 was sought to be summoned for 14.07.2016. Defendant No.12 could not be served for 14.07.2016 for want of correct address. In view of aforesaid circumstances of the case, the Court did not find appropriate to grant further adjournment to the plaintiff to serve defendant No.12 and proceed to dismiss the suit qua defendant No.12 under Order 9 Rule 2 CPC.

[4]. From the record, it is apparent that defendant No.12 was successful in evading the service despite issuance of notices on both the addresses given in the plaint.

[5]. At the time of issuance of notice of motion on 09.08.2016, the petitioners showed their willingness to get defendant No.12 served by means of substituted service in terms of Order 5 Rule 20 CPC. The compliance was done and publication was made. Despite the publication for today, none has appeared to represent the cause of defendant No.12.

[6]. From these circumstances on record, it can safely be taken that defendant No.12 willfully evaded the service of summons on both the addresses from the very inception. In my considered opinion, the order dated 14.07.2016 dismissing the suit qua defendant No.12 is harsh and is not legally sustainable.

[7]. In view of above, order dated 14.07.2016 passed by Additional Civil Judge (Senior Division), Sardulgarh, District Mansa is hereby set aside. Trial Court shall proceed with the case in accordance with law.

[8]. Disposed of.

14.07.2017  
prince

**(RAJ MOHAN SINGH)**  
**JUDGE**

**Whether Reasoned/Speaking**

**Yes/No**

**Whether Reportable**

**Yes/No**