

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.4803 of 2017 (O&M)

Date of decision: 26.07.2017

Radha Krishan

... Petitioner

Vs.

Manjit Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. N.S. Diwana, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the order dated 01.07.2017 passed by the learned trial Court, whereby application of the defendant for setting aside the ex-parte decree dated 26.03.2015 was allowed, granting him an opportunity to contest the suit on merits, plaintiff has approached this Court by way of present civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Heard learned counsel for the petitioner.

A bare perusal of the impugned order would make it crystal clear that defendant-respondent Manjit Singh was sought to be served by way of proclamation. Earlier thereto, an alleged refusal report was furnished by the process serving agency. Process Server never met defendant-respondent Manjit Singh. It was recorded that Manjit Singh did not meet at his residence. No name

of any other family member of the defendant Manjit Singh was mentioned in the report furnished by the process serving agency. In such a situation, the plaintiff ought to have made a prayer before the learned trial Court to serve the defendant-respondent Manjit Singh by way of dasti process as well as by way of registered A.D. Post. The learned Court also ought to have insisted for due service on the defendant before proceeding him against ex-parte. Having said that, this Court feels no hesitation to conclude that the learned trial Court committed no error of law, while allowing the application of the defendant for setting aside the ex-parte judgment and decree, because of which the impugned order deserves to be upheld.

It is the settled proposition of law that rules of natural justice must be followed. Nobody should be condemned unheard. In the case in hand, golden rule of *audi alteram partem* had been violated at an earlier point of time, which was rightly sought to be corrected by the learned trial Court, while passing the impugned order. In this view of the matter, it can be safely concluded that the learned trial Court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

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 passed by the learned trial Court has been found based on sound reasons, because of which the impugned order 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 since no illegality has been found in the impugned order passed by the learned trial Court, the same deserves to be upheld. The revision petition having been found wholly misconceived, bereft of merit and without any substance, must fail. No ground for interference has been made out.

Resultantly, with the abovesaid observations made, instant civil revision petition stands dismissed, however, with no order as to costs.

26.07.2017
vishnu

[RAMESHWAR SINGH MALIK]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No