

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

CR No. 8444 of 2015
Date of Decision: 05.07.2017

HANIF

-PETITIONER

VS

DINESH KUMAR AND ORS.

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Jitesh Bhardwaj, Advocate, for
Mr. Vishal Singh Chauhan, Advocate,
for the petitioner.

Mr. J.S. Hooda, Advocate,
for the respondents.

RAJ MOHAN SINGH, J. (ORAL)

Petitioner has assailed order dated 08.10.2015 passed by Civil Judge (Senior Division), Nuh, District Mewat vide which application filed by the petitioner for setting aside exparte order dated 23.03.2013 was dismissed.

Presumption of valid service was drawn on the ground that real brother of the petitioner was contesting the suit.

Order 5 Rule 11 CPC postulates that service of summon shall be made on each defendant. Order 5 Rule 12 CPC prescribes that such service of summon on the defendant

should be in person as far as practicable, unless, he is an agent empowered to accept summon on his behalf. The service on adult member of the family of the defendant can be effected in terms of Order 5 Rule 15 CPC only when defendant is not found present in the house at the time of service of summon and some adult member of the family is present in the house.

It appears that inference has been drawn by the trial Court solely on the ground that brother of the petitioner is contesting the suit. No material has been pointed out on record as to the fact of cordial relation between the petitioner and his brother.

Learned counsel for the respondents submitted that the petitioner is instrumental in delaying the proceedings for one reason or the other.

Having considered the submissions made at the bar, I am of the view that this petition deserves to be accepted as there is total non-compliance of Order 5 Rules 11, 12 and 15 CPC.

At this stage, Mr. Rakesh Kumar Sharma, withdraws his Power of Attorney and Mr. Jitesh Bhardwaj, Advocate for Mr. Vishal Singh Chauhan, Advocate appears on behalf of the petitioner.

In view of aforesaid, this revision petition is accepted; impugned order dated 23.03.2013 is set aside. However, the trial Court is directed to expedite the proceedings by making every endeavor to decide the case as early as possible.

05.07.2017
jyoti Y.

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No