

CR No. 922 of 2015 (O&M)

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

**CR No. 922 of 2015 (O&M)
Date of Decision: 6.10.2017**

State of Haryana and others

.....Petitioners

Vs.

Sunita

.....Respondent

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Manoj Kumar Sangwan, DAG, Haryana.

Mr. Gurinder Singh, Advocate
for the respondent.

RAMESHWAR SINGH MALIK J. (ORAL)

Learned counsel for the respondent, at the very outset, states that since order dated 18.6.2013 (Annexure P-1) passed by the Collector, Thanesar, was an ex parte order, let present revision petition filed by the State of Haryana be allowed, setting aside both the orders Annexures P-1 and P-2, subject to payment of reasonable amount of costs to be paid to the State of Haryana by the respondent for granting her an opportunity of being heard by the Collector and passing an appropriate fresh order thereafter.

On the other hand, learned counsel for the State vehemently opposed the abovesaid contention of learned counsel for the respondent, contending that once the respondent was duly served and still did not appear, the Collector was well within his jurisdiction to pass the order dated 18.6.2013, which was illegally set aside by the learned Additional District Judge by passing the impugned order dated 16.1.2014 (Annexure P-2). He

CR No. 922 of 2015 (O&M)

prays for setting aside the impugned order (Annexure P-2), by allowing the present revision petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that contention raised by learned counsel for the respondent has been found well justified and the same deserves to be accepted. It is so said because initial order dated 18.6.2013 (Annexure P-1) passed by the Collector was admittedly an ex parte order. Golden rule of audi alteram partem stood violated.

Even if statutory presumption is drawn against the respondent that she was served by way of Registered AD Post, still the learned counsel for the respondent has fairly stated that reasonable amount of costs can be imposed on the respondent for her non appearance before the Collector on 18.6.2013, granting her an opportunity of being heard, directing the Collector to pass a fresh order and that too, on merits, after hearing the respondent. It is so said because every court of law and also administrative authorities must make an endeavour to decide the dispute on merits instead of technicalities, including by passing an ex parte order.

Rules of procedures are meant for advancing the cause of justice. It is also the settled proposition of law that nobody should be condemned unheard. In the present case, respondent was proceeded against ex parte on the very first date of hearing. It is the case of the respondent that she was not duly served before passing the order dated 18.6.2013 by the Collector, vide Annexure P-1. On the other hand, it was contented on behalf of the State that respondent was duly served.

CR No. 922 of 2015 (O&M)

3

Be that as it may, a bare perusal of order dated 18.6.2013(Annexure P-1) passed by the Collector would show that it was an ex parte order, meaning thereby that respondent was not granted an opportunity of being heard before passing the said order (Annexure P-1).

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 present revision deserves to be allowed. Accordingly, impugned order 16.1.2014 (Annexure P-2) passed by the learned Additional District Judge as well as ex parte dated 18.6.2013 (Annexure P-1) passed by the Collector, Thanesar, are set aside.

Case is remanded to the Collector, Thanesar, to grant an opportunity of being heard to the respondent-Smt. Sunita wife of Sh. Ashok Kumar. After hearing both the parties, the Collector, Thanesar, shall pass a fresh order on merits. Respondent shall deposit an amount of ₹15,000/- with the Collector, Thanesar, as costs on or before the next date of hearing, before the Collector proceeds further with the matter.

Resultantly, with the abovesaid observations made, instant revision petition stands allowed.

6.10.2017
Ak Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

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