

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.12980 of 2013

Date of Decision: November 30, 2017

Shri Ram General Insurance Co. Ltd.

. . . . Petitioner

Vs.

Vijay Singh and another

. . . .Respondent

CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Vinod K. Arya, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is filed by the Insurance Company against the order of the Permanent Lok Adalat (PUS), Gurgaon dated 12.12.2012 by which respondent No.1 has been awarded ₹49,500/-.

The writ petition was listed for preliminary hearing on 04.06.2013. At that time the following order was passed: -

“Present : None

*Despite the case having been
called twice, nobody has put in appearance.*

*In the interest of justice,
adjourned to 04.07.2013.”*

On the adjourned date i.e. 04.07.2013, the following order was passed: -

“Present : None

*Case called twice. Nobody is
present.*

*In the interest of justice,
adjourned to 9.9.2013.”*

On 9.9.2013, the following order was passed: -

*“Present : Mr.Tajender K. Joshi,
Advocate, for the petitioner.
Learned counsel for the
petitioner seeks time to place on record a
copy of the summon issued to the petitioner
for 30.11.2012, which was allegedly served
on the petitioner after the date fixed.*

*On his request, adjourned to
8.10.2013.”*

On 8.10.2013, the following order was passed: -

*“Present : Mr.Arun Sharma, Advocate, for
Mr.Tajender K. Joshi,
Advocate, for the petitioner.*

*Learned counsel for the
petitioner seeks more time to comply with
the order dated 9.9.2013.*

*On his request, adjourned to
17.01.2014.”*

On 17.01.2014, the following order was passed: -

“Present : None

*Order dated 9.9.2013 has not
been complied with till date.*

One last opportunity is granted to learned counsel for the petitioner to comply with order dated 09.09.2013.

List on 28.01.2014.”

On 28.01.2014, the following order was passed: -

“Present : Mr.Tajender Joshi, Advocate, for the petitioner.

On request, adjourned to 10.3.2014.”

On 10.3.2014, the following order was passed: -

“Present : Mr.Arun Sharma, Advocate, for Mr.Tajinder K. Joshi, Advocate, for the petitioner.

On request, list on 21.03.2014.”

On 21.03.2014, the following order was passed:-

“Present : Mr.Tajinder K. Joshi, Advocate, for the petitioner.

List on 28.03.2014 to enable the learned counsel for the petitioner to get the details of the cheque which was sent to the petitioner, pursuant to Annexure P-3.”

On 28.03.2014, the following order was passed:

“Present : Mr.Tajinder K. Joshi, Advocate, for the petitioner.

On request, list on 07.04.2014.”

On 07.04.2014, the following order was passed: -

“Present : Mr.T.K. Joshi, Advocate, for the petitioner.

Adjourned to 25.04.2014 to enable learned counsel for the petitioner to comply with the order dated 09.09.2013.”

On 25.04.2014, following order was passed:-

“Present : Mr.Arun Sharma, Advocate, for Mr.T.K. Joshi, Advocate, for the petitioner.

On request, list on 19.05.2014.”

Ultimately on 19.5.2014, notice of motion was issued and operation of the impugned order was stayed and then again started the process of seeking adjournments for service upon respondent No.1. Order dated 19.05.2014 is reproduced as under: -

“Present : Mr.Tajinder K. Joshi, Advocate, for the applicant/petitioner/s.

CM No.5921 of 2014

C.M. allowed. Annexure P-5 is taken on record.

Main Case

Learned counsel has referred to Annexure P5 and contends that on 17.3.2012 the policy stood cancelled as the premium had been sent back to the petitioner vide cheque No.000382 of ₹1390/-. After the cancellation of the policy, the respondents were not entitled for any claim.

*Notice of motion for
21.11.2014.*

*Operation of the impugned
order dated 12.12.2012 (Annexure P2) is
stayed.”*

On 21.11.2014, the following order was passed:-

“Present : None.

*Notice issued to respondent
No.1 has been received back with the report
that he is not residing at the given address.
Petitioner to furnish the correct address of
respondent No.1.*

*Fresh notice to respondent No.1
be issued for 01.05.2015.”*

On 02.11.2015, the following order was passed:-

*“Present : Mr. Vinod Kumar Arya,
Advocate, for the petitioner.*

*As per office report, notice
could not be issued to respondent No.1 for
want of correct address.*

*Fresh notice to respondent No.1
be issued for 29.03.2016, on doing the
needful within 2 weeks by learned counsel
for the petitioner.”*

On 29.03.2016, the following order was passed:-

“Present : Mr.H.S. Bajwa, Advcoate, for Mr.Vinod K. Arya, Advocate, for the petitioner.

As per office report, correct address of respondent No.1 has not been filed.

Counsel for the petitioner is directed to file the correct address of respondent No.1. within 15 days.

On doing the needful, fresh notice to respondent No.1 be issued for 01.08.2016.”

On 01.08.2016, the case was adjourned by order for 13.02.2017.

On 13.02.2017, the following order was passed:-

“Present : Mr.Vinod K. Arya, Advocate, for the petitioner.

Respondent No.1 having not been served, let fresh notice to respondent No.1 be issued for 6.7.2017, at the correct address supplied by the petitioner within a period of 15 days.

Dasti also. ”

On 06.07.2017, the following order was passed:-

“Present : None for the petitioner.

On written request, adjourned to 30.11.2017.”

As per office report dated 28.11.2017, fresh notice could not be issued to respondent No.1 for want of correct address and no one has come to receive the *dasti* summon, which was ordered on 13.2.2017. Today also learned counsel for the petitioner has submitted that the petitioner is unable to get the correct address of respondent No.1. The petitioner has not even filed any kind of application for seeking substituted service.

In view thereof, am of the considered opinion that it is a complete misuse of the process of law, therefore, the present petition is hereby dismissed for non-prosecution.

NOVEMBER 30, 2017

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No