

SATNAM KAUR VS NIRMAL SINGH

Present : Mr. Harish Mehta, Advocate
for the appellant.

Mr. Yash Dev Kaushik, Advocate
for the respondent.

Appellant-Satnam Kaur has challenged the rejection of the plaint by the trial Court invoking Order VII Rule 11(f) CPC for the simple reason that the correct address was not furnished by the appellant, despite the direction in this regard not once but twice.

In the background of rival submissions made by counsel for the appellant and the counsel for the respondent, we thoroughly perused the provisions under Order VII Rule 11(f) CPC, Order V Rule 9(3) and Order IX Rule 5 of the Code of Civil Procedure. Though the minutes of proceedings dated 11.04.2013 indicate that the appellant had not chosen to furnish the required copies of petition along with the correct address. The subsequent minutes of proceedings dated 03.06.2013 and 30.08.2013 disclose that the appellant defaulted in not furnishing the correct address.

The question that arises for consideration is whether the trial Court is competent to invoke Order VII Rule 11(f) CPC so as to reject the plaint if the appellant failed to furnish the correct address.

It is not disputed that when the plaint was presented by the appellant, she furnished the required copies of the petition. Only during the subsequent hearings, the trial Court having noticed that the copies of the petition were to be submitted by the appellant along with the correct address

passed a direction to this effect on 11.02.2013. In other words, the Court will have to construe in the face of the minutes of proceedings dated 03.06.2013 and 30.08.2013 that the appellant was required to furnish only the correct address as directed and not the copies of the petition as originally directed on 11.04.2013.

In the background of the above facts and circumstances, we are of the considered view that the trial Court has wrongly resorted to the provisions under Order VII Rule 11(f) CPC to reject the petition filed by the appellant to furnish correct address as directed during two previous occasions. The trial Court should have resorted to only Order 9 Rule 5 CPC to dismiss the petition in default.

In view thereof, the impugned order passed by the trial Court is set aside and the appeal is allowed.

Let both the parties appear before the trial Court on 29.05.2017. Records be sent back to the trial Court but not later than the date fixed before the trial Court so that the trial Court shall take up the case for effective hearing on 29.05.2017.

(M. JEYAPPAUL)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

May 04, 2017

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