

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

CR no.1934 of 2018 (O&M)

Date of Decision: 17.12.2018

Bhagwant Singh

...Petitioner

Vs.

Taranjit Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Kamalpreet Bawa, Advocate, for the petitioner.
Mr. Mukesh Kumar Sharma, Advocate,
for respondents no.1 to 3.

Amol Rattan Singh, J (Oral)

CM no.26101-CII of 2018

On the last date of hearing, learned counsel for the petitioner had produced in Court an enlarged photocopy of what was contended to be proof of service of the notice issued in the suit, further contending that the said notice had been signed by one Manjit Kaur (in *Gurumukhi*), which he was directed to place on record.

Thus, CM no.26101-CII of 2018 has been filed, seeking to place on record a photocopy of a document shown to be carrying the stamp of a post office (the name of the post office not fully legible), as also a photocopy of a document showing what is stated to be the signature of Manjit Kaur (in *Gurumukhi*), by way of acknowledgement of her having received the registered post.

Learned counsel submits that the registered letter was not for delivery of the notice issued by the trial court, but simply a copy of the

plaint sent by him on his own, to respondent no.4 (defendant no.4 in the suit).

That being so, obviously it is not even contended to be proof of service of any notice issued by the Court and consequently, despite the order of this Court dated October 16, 2018, the document is considered unnecessary for the purpose of deciding this petition.

Consequently, the application is dismissed.

CR no.1934 of 2018

By this petition, the petitioner challenges the order of the learned trial court, by which the suit of the petitioner (plaintiff) against defendant no.4 (also respondent no.4 herein), has been dismissed on the ground that sufficient opportunities for furnishing the correct address of the defendant having been given to him, he failed to do the needful.

Pursuant to the direction of this Court, the learned trial court has also sent to this Court certified copies of the notices returned back, as were ordered to be issued by that court to respondent no.4, showing that all 4 notices issued were returned on the ground that respondent no.4 resides abroad.

Learned counsel for the petitioner next points to a document that he has annexed as a part of Annexure P-4, the document being an order passed by the trial court on 25.09.2017, directing that notice be issued to respondent no.4, upon his correct address being filed, by ordinary process as also through registered cover (A.D.).

He submits that the petitioner not being aware of the address of respondent no.4 in whichever country he is residing abroad, either respondents no.1 to 3 be directed to furnish the correct address of respondent no.4 (they being brothers of respondent no.4), or if they are not able or willing to do that, an opportunity be granted to the petitioner to serve the said respondent by way of substituted service.

Learned counsel for respondents no.1 to 3 submits that they having nothing to say with regard to respondent no.4, they having duly put in appearance through counsel before the trial court.

Having considered the above, the petition is consequently allowed, with the impugned order set aside. The trial court is directed to obtain from respondents no.1 to 3 the address of respondent no.4, if they are willing to provide it, or in the alternative, to allow the petitioner to file an application for serving notice issued in the suit to the said respondent by way of substituted service, i.e. by publication of the notice in two newspapers having wide circulation in the area of permanent residence of respondent no.4 in India (as given in the memo of parties), one newspaper being in English and the other in *Gurumukhi*.

The entire process (of either notice to be issued upon the fresh address given by respondents no.1 to 3 or in the alternative by way of substituted service), be effected within one month from today.

17.12.2018
vcgarg

(Amol Rattan Singh)
Judge

Whether speaking/reasoned : Yes
Whether reportable : Yes