

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 2535 of 2018 (O/M)
Date of decision : 20.4.2018

Abdul Majid

..... Petitioner

Versus

Orangzeb and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. M.K. Chouhan, Advocate, for petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

Impugned in present revision is order dated 12.3.2018 (Annexure-P-1), passed by learned Civil Judge (Junior Division), Ferozepur Jhirka, District Mewat, Nuh, vide which an application filed by respondents for setting aside ex parte judgment and decree dated 20.11.1999 was allowed.

Heard.

It comes out that applicants were defendants No. 3, 6 to 12 in the main suit. Setting aside of ex parte judgment and decree was sought on two grounds, one was that they were not properly served and second was that defendants No. 7 and 8 were minor and no Court Guardian was

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appointed for them. Perusal of impugned judgments shows that trial Court examined the interim orders. On 11.11.1998, summons were ordered to be issued to defendants No. 3, 6 to 12. However, without any order infact munadi was issued. On 15.12.1998, munadi was received back duly served. Defendants No. 7 and 8 were sued as minor. Therefore, if their guardian refused to appear, it was the duty of the Court to appoint guardian which was not done. It further comes out that there was no order of substitute service through munadi. Ordinary summons were ordered to be issued. For one or other reason, munadi was issued. The substitute service cannot be resorted to without satisfying the Court that it is not possible to serve respondents through ordinary service. Moreover, the person who executed munadi is not chowkidar of village and rather, his brother was chowkidar of village. The process server who appeared as RW3 stated that copy of plaint was not attached with summons. Therefore, trial Court came to the conclusion that proper service was not got done against defendants No. 3, 6 to 12. Therefore, ex parte judgment and decree was set aside.

After going through the judgment of trial Court, this Court is of the view that judgment is based on sound reasoning. There is nothing to differ with said view which is based on record. No ground to interfere in impugned order. Consequently, revision is dismissed. Since main case has been dismissed, therefore, pending application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

20.4.2018
sjks

Whether speaking / reasoned	:	Yes / No
Whether Reportable	:	Yes / No