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

CR-4738-2017

Date of decision : 02.04.2018

Sikandar Singh and another

... Petitioner(s)

Versus

Prem Singh and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rajesh Narang, Advocate and
Mr. Rajiv Malhotra, Advocate
for the petitioner(s).

None for the respondent(s).

AMIT RAWAL, J. (ORAL)

In pursuance to the order dated 24.07.2017, the costs of ₹5,000/
has been deposited.

The petitioners-plaintiffs are aggrieved of the impugned orders dated 10.03.2017 (Annexure P-2) as well as dated 16.05.2017 (Annexure P-5), whereby an application dated 06.04.2017 (Annexure P-4) for restoration of the suit has been dismissed.

Learned counsel for the petitioners submitted that the petitioners-plaintiffs instituted the suit for declaration to the effect that he is exclusive owner in possession of the land in dispute against Prem Singh/defendant No.1, Sarabjit Kaur wife of Amarjit Singh/defendant No.2 and Parvinder Kaur wife of Pal Inder Singh/defendant No.3, all resident of Village Daad, Tehsil and District Ludhiana. However, the trial Court vide

impugned order dated 10.03.2017 (Annexure P-3) dismissed the suit against defendant Nos.2 and 3 under Order 9 Rule 2 of the Code of Civil Procedure for want of furnishing the correct address. He further submitted that defendant Nos.2 and 3 are avoiding the service and an opportunity should have been given to effect the substituted service upon the aforementioned persons. Even an review application filed in this regard was also dismissed.

He next submitted that in case one opportunity is granted, he will moved an appropriate application, subject to any terms and conditions, which this Court may deem fit appropriate.

Even this Court had already issued notice of motion vide order dated 24.07.2017 and the same position is in this Court as respondent Nos.2 & 3 and defendant Nos.2 & 3 before the Court below had not approached this Court. Accordingly, I proceed to decide the present revision petition on merits.

I have heard the learned counsel for the petitioners-plaintiffs, appraised the paper book and of the view that no doubt the petitioners had not been able to give the correct address of defendant Nos.2 and 3 as reflected in the memo of parties, which is not in consonance with the provisions of Order 6 Rule 14-A of the Code of Civil Procedure. In fact the trial Court should not have entertained the plaint for want of incorrect address as the address shown is all are residents of Village Daad, Tehsil and District Ludhiana, however, in order to advance justice and to prevent miscarriage of justice, I deem it appropriate to grant one opportunity to the petitioners-plaintiffs to effect the service by giving correct address of the defendant Nos.2 and 3 or to avail the opportunity of effecting the service through substituted service. On compliance of the aforementioned

directions, the trial Court shall proceed in accordance with law, failing which, the orders, impugned, shall automatically come into force.

Resultantly, the present revision petition stands allowed.

02.04.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓
Whether speaking/reasoned
Yes/ No

✓
Whether Reportable
Yes/ No