

213

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 4930 of 2014 (O/M)
Date of decision : 9.2.2018

Maninder Singh alias Mohinder Singh Pandher Petitioner

Versus

Sunita and others Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Ashna Gill, Advocate, for, Mr. Aman Pal, 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 the order dated 15.5.2014 (Annexure-P-4), passed by MACT, Ambala ('the Tribunal'), whereby application filed for setting aside ex parte award dated 17.11.2008 (Annexure-P-1) and ex parte order dated 3.3.2008, passed against respondent No. 2A-petitioner was dismissed.

I have heard learned counsel for parties and have also carefully gone through the file.

From the award (Annexure-P-1), it comes out that the Tribunal passed an award dated 17.11.2008 in favour of claimants and against respondents No. 1, 2A and 3 for Rs. 5,27,900/-. In the said claim petition, respondent No. 2A, who is present petitioner, was ex parte. After passing of the award, present application was filed by petitioner on 28.8.2010 for setting aside the ex parte proceedings and ex parte award, passed against him. It was stated that he was confined in District Jail, Ghaziabad, UP, since year 2007. No summons were served upon him. He was

CR No. 4930 of 2014 (O/M)

wrongly proceeded against ex parte on 3.3.2008. Consequently, ex parte award was passed against him on 17.11.2008.

It is not a denying fact that present petitioner who is owner of offending truck, was confined in District Jail, Ghaziabad, UP. The trial Court examined the lower Court file and after framing issues and recording of evidence came to conclusion that as per original file when notice was issued to present petitioner, report was received that he was confined in District Jail Ghaziabad, UP. Therefore, vide order dated 8.11.2007, he was ordered to be summoned through Superintendent, District Jail Ghaziabad, on filing of registered cover and copies of summons, vide order dated 23.1.2008 for 3.3.2008. The registered letter alongwith acknowledgment was sent. Copy of acknowledgment on file shows that it bears stamp and signature of Superintendent, District Jail, Ghaziabad, dated 5.2.2008. Therefore, the heavy burden was on present petitioner to show that summons received by Superintendent, District Jail, Ghaziabad, were not forwarded to him. No record of jail was summoned to prove the same. Therefore, mere statement that he was not served is not sufficient. It is added here that even in present petition, it is stated that petitioner is still confined in District Jail and that on receiving notice of execution, in jail, he filed present application. There is no illegality or infirmity in the findings recorded by Tribunal on all the issues. Consequently, civil revision is found to be without any merit and is hereby dismissed.

(KULDIP SINGH)
JUDGE

9.2.2018
sjks

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