

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

246

CR No.4933 of 2018

Date of Decision: December 04, 2018

Surjeet Kaur since deceased through her LR's.Petitioner(s)

versus

Munshi Ram

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE RAJ MOHAN SINGH

Present: Mr. Vivek Khatri, Advocate for the petitioner(s).

Mr. Amit Khatkar, Advocate for the respondent.

RAJ MOHAN SINGH, J. (Oral)

The petitioners has challenged the order dated 18.03.2014 passed by Civil Judge (Junior Division) Hisar vide which the application filed by the petitioners under Order IX Rule 13 CPC was dismissed. An appeal filed against the aforesaid order was also dismissed by Additional District & Sessions Judge, Hisar. That is how, both the orders came to be under challenged in the present Revision Petition.

Perusal of the record would show that Surjeet Kaur was served through her son Ishwar Singh on 29.08.2006. As per the report of Process Server dated 19.08.2006, the house was found

lock. Under Order IX Rule 13 CPC an issue was framed to the following effect:-

“ Whether there is a reasonable cause for setting aside *ex parte* decree initiated against applicant-Surjeet Kaur? OPA.

Burden to prove the aforesaid issue was on the applicant-petitioner. Petitioner has not examined the Process Server nor the witness/son of the petitioner i.e. Ishwar Singh was examined in the evidence. Bhim Singh, the second son of the petitioner was examined in the evidence, who has admitted the factum of signature of Ishwar Singh on the report-Ex.A-2. The witness further deposed that he and Ishwar Singh were living jointly in the same house along with their mother-Surjeet Kaur.

In view of the aforementioned admission that too by brother of Ishwar Singh, no fault in effecting service upon Surjeet Kaur through her son Ishwar Singh can be found, particularly when onus of issue No.1 has not been discharged by the petitioner with reference to any evidence on record.

The view expressed in the judgment passed by this Court in Civil Revision No. 5282 of 2015 titled “**Naveen Kumar Vs. Sanjana and other**” is on different parameters wherein the case was depending upon non-compliance of Order 5 Rule 17CPC. No such preposition is involved in the present case. There is no error of jurisdiction in the impugned orders passed by the Courts below.

This Revision Petition is devoid of merits and is accordingly dismissed.

December 04, 2018
sonia arora

[RAJ MOHAN SINGH]
JUDGE

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