

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

120

CR No.6047 of 2017
Date of decision: 14.03.2018

Khajani

..... Petitioner

Versus

Prem Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Vikram Singh, Advocate
for the petitioner.

Mr. T.P. Singh, Advocate
for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

Defendant-petitioner who has been proceeded ex parte has filed the revision petition against the order passed by the learned trial Court refusing to set aside the ex parte proceedings. The defendant-petitioner was served through daughter-in-law. As per the amendment carried by this Court under Order 5 Rule 15, service of summons can only be through any adult male member of the family of the defendant who is residing with him. The amendment brought in by the States of Punjab, Haryana and U.T., Chandigarh is re-produced as under:-

“Punjab, Haryana and Chandigarh – (1) Where service may be on male member of defendant's family. - Where in any suit the defendant cannot be found or is absent from his residence and has no agent empowered to accept service of the summons on his behalf, service may be made on any adult male member of the family of the defendant who is residing with him.”

In view thereof, service on the defendant-petitioner was not

proper service. However, learned counsel for the respondent-plaintiff has pointed out that the son of defendant-petitioner is already appearing and both of them i.e. mother and son are living together. He has further submitted that the entire efforts is to delay the decision of the case which is for passing a decree for separate possession by way of partition of the suit property.

Taking into consideration the submission of learned counsel for the parties, this Court is of the opinion that ends of justice would be met if the petitioner is permitted to file written statement and is also granted one opportunity to cross-examine the witnesses produced by the plaintiff and one additional opportunity to the petitioner to lead her entire evidence. There would not be any de-novo trial. The trial Court would make a sincere endeavor to conclude the trial of the case within a period of 03 months from the date of receipt of certified copy of this order.

In view thereof, the order under challenge is set aside.

Revision petition is allowed.

14.03.2018

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No