

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

**CR-6333-2017 (O&M)
Date of decision : 2.5.2018**

Anand Singh (since deceased) through LRs Petitioners

Versus

Yashvir Singh Dahiya and another Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sudhir Hooda, Advocate for the petitioners.

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 ?*

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 23.1.2017 (Annexure P-6), passed by learned Additional District Judge, Rohtak, affirming the order dated 3.11.2015 (Annexure P-4), passed by learned Additional Civil Judge (Senior Division), Rohtak, vide which an application under Order IX Rule 13 of the Code of Civil Procedure 1908 (for short 'the CPC, 1908') filed by the petitioner-defendant/Anand Singh for setting aside the ex-parte judgment and decree dated 21.9.2005 was dismissed.

It comes out that a civil suit No. 842 dated 7.11.2003 titled as '*Yashvir Singh Dahiya versus Anand Singh*' was ex-parte decreed vide judgment and decree dated 21.9.2005 passed by learned Civil Judge (Senior Division), Rohtak.

The said application was filed under Order IX Rule 13 of the CPC, 1908 on 26.3.2012 for setting aside the judgment and decree. The ground taken is that no summons were sent to the defendant as he is the permanent resident of Village Bohar and not residing at the given address. He never signed the summon nor engaged any counsel namely Shri Ramesh Nandal Advocate.

Learned trial Court after considering the reply of the opposite party framed the issues and came to the conclusion that there are no just grounds for setting aside the ex-parte judgment and decree dated 21.9.2005 passed by learned Civil Judge (Senior Division), Rohtak. It was noticed by learned trial Court that defendant had appeared in the main suit through counsel Shri Ramesh Nandal, Advocate. Several adjournments were sought for filing the written statement. Since the written statement was not filed within stipulated time, therefore, the suit was decreed. The defendant took the plea that he had never engaged the said counsel. However, the trial Court noticed that defendant had himself appeared in the Court and even signed on the margin of the order sheet dated 25.4.2005. Not only that he appeared in person on five dates, the signatures on the order sheet and on the power of attorney of the counsel have striking similarities. Defendant did not get specimen signatures compared with the order sheet to show that he was not the man who appeared in the Court in person. Not only this, when in the execution notice was issued to the judgement-debtor on the same address. The registered letter was received with the report that it has

been received by his son which means that judgment-debtor is living at the above said address. There is no reason, at least for the postman, to make a wrong report. The application has been filed on absolutely false and misleading grounds, therefore, the same was rightly declined.

In view of above, no illegality or infirmity is found in the order dated 23.1.2017 (Annexure P-6), passed by learned Additional District Judge, Rohtak, affirming the order dated 3.11.2015 (Annexure P-4), passed by learned Additional Civil Judge (Senior Division), Rohtak.

Dismissed.

(KULDIP SINGH)
JUDGE

2.5.2018
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Whether speaking / reasoned	Yes
Whether Reportable:	No