

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR 7712-2015 (O&M)
Date of decision: 17.05.2018

Harinder Singh @ Harinderjit Singh

.....Petitioner

versus

Maninder Pal Singh and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.S.K.Singla, Advocate for the petitioner
Mr.Abhishek Singla, Advocate for respondent no.15

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters 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 12.11.2013 passed by learned Civil Judge (Junior Division), Talwandi Sabi, vide which, defendant No.2 with other defendants were proceeded ex-parte. Also impugned is the order dated 2.11.2015 (Annexure P1) passed by learned Civil Judge (Junior Division), Talwandi Sabo, vide which, application filed by defendant no.2 for setting aside ex-parte order dated 12.11.2013 was dismissed despite the fact that the plaintiff has made a statement that he has no objection if the ex-parte proceedings against defendant no.2 are set aside subject to heavy cost.

Heard.

The perusal of the interim order shows that summons were issued to serve defendants, including defendant no.2 for 28.9.2013. These were not received back. However, on the next date i.e. 28.9.2013,

substituted service of several defendants, including defendant no.2 was ordered by way of publication and on the basis of the said publication, defendant no.2 and some other defendants were proceeded against ex-parte vide order dated 12.11.2013.

I am of the view that order dated 12.11.2013 is not sustainable in the eyes of law. Once, summons are not received back, the Court should have issued fresh summons. Non-receipt of summons is no ground to order substituted service. Moreover, this case is fixed for final arguments. However, plaintiff had made a statement that he had no objection if ex-parte proceedings against defendant no.2 are set aside subject to heavy costs. The case is for declaration that the plaintiff along with defendant no.1 is the owner of the suit property.

Considering the nature of the case and the concession given by the plaintiff, ex-parte proceedings against defendant no.2 are set aside subject to costs of Rs.5000/- payable to the plaintiff. The impugned order dated 2.11.2015 (Annexure P1) is also accordingly set aside. In order to ensure that the disposal of the case is not delayed, the trial Court is directed to grant short adjournments to defendant no.2 to file written statement and lead evidence and decide the case within six months.

The present revision petition stands allowed accordingly.

17.05.2018
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No