

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

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CR No.8585 of 2017 (O & M)
Date of Decision:17.01.2018

Vijay Kumar Jain

...Petitioner

Versus

Kumari Kumud Jain

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Harkesh Manuja, Advocate
for the petitioner.

ANIL KSHETARPAL, J.(Oral)

Plaintiff is in the revision petition against the order passed by the learned trial Court setting aside exparte decree while allowing the application under Order 9 Rule 13 of the Code of Civil Procedure.

The Court has found that ex parte proceedings were initiated after proclamation was carried out at Narnaud, whereas the address as given in the plaint is of Hansi.

Learned counsel for the petitioner has vehemently argued that initially when the summons were sent, the brother of the defendant had duly received the summons, however, the Court after recording that the defendant is deliberately avoiding service, chose to order proclamation.

I have considered the submission. Since the learned trial Court has found that proclamation was carried out at a place which was not the address given in the plaint, this Court does not find error in the order passed by the learned trial Court while allowing the application under Order 9 Rule 13 of the Code of Civil Procedure.

However, taking into consideration that the plaintiff had filed a

suit for specific performance on 10.05.2010, which was decreed on 13.11.2010, this Court is of the opinion that the plaintiff cannot be prejudiced due to an error/mistake of the Court. Hence, in the considered opinion of this Court, this is a fit case where learned trial Court should be directed to expedite the trial of the case.

In view of the above, the revision petition is disposed of with the observation that the learned trial Court would make sincere endeavour to decide the suit within a period of 6 months from the date of receipt of certified copy of the order.

With these observations, revision petition is disposed of.

17.01.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No