

CR-27-2019 (O/M)

Date of decision : 2.4.2019

Naresh Kumar Kalra

..... Petitioner (s)

Versus

Praduman Kumar Gupta

..... Respondent (s)

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. G.C. Shahpuri, Advocate,
for petitioner.Mr. V.K. Gupta, Advocate,
for respondent.

-.-

-.-

KULDIP SINGH, J. (ORAL)

Impugned in present revision is order dated 7.11.2017 (Annexure-P-7), passed by learned Civil Judge (Junior Division), Yamuna Nagar at Jagadhri, vide which an application filed by defendant-petitioner under Order IX Rule 13 CPC, 1908, for setting aside ex parte judgment and decree dated 25.7.2014 (Annexure-P-1), was dismissed. Also impugned is judgment dated 6.12.2018 (Annexure-P-9), passed by learned Additional District Judge, Yamuna Nagar at Jagadhri, vide which appeal filed against said judgment and decree, was dismissed.

I have heard learned counsel for parties and have also carefully examine record.

The perusal of file shows that plaintiff-respondent filed a suit for specific performance of agreement dated 9.7.2002. In said suit, defendant-petitioner did not appear despite service through munadi and was proceeded against ex parte. Consequently, judgment and decree was passed on 25.7.2014 (Annexure-P-1). Defendant-petitioner filed application for setting aside ex parte judgment and decree on the ground that in the plaint, house number was not mentioned. He claimed that he is running Shubh Naman Fast Food in Issapur Colony for last thirty years. He did not receive

any summons by ordinary process or by post at Vishnu Garden, where he is living or at his shop. Munadi was not effected and his signature on Munadi is forged.

The perusal of file shows that in order to prove Munadi, process server was examined. Though in the plaint, house number is not mentioned, but Munadi is to be effected in the locality. The process server specifically stated that Munadi was effected. Defendant came out of house and received copy of summons. At that time, he was told to appear in the Court on 24.9.2009 at 10.00 AM. However, to convert said statement, defendant did not examine any handwriting and fingerprint expert, who could compare his specimen signature with disputed signature on munadi summons to show that his signature is forged. The process server was performing his official duty. Therefore, in such circumstances, statement of process server is to be believed.

The learned counsel for petitioner contends that his valuable rights are involved and that he should be given opportunity to examine handwriting and fingerprint expert before trial Court.

I am of the view that sufficient opportunity was granted to petitioner before trial Court. The judgment of trial Court has already been upheld in appeal, Therefore, there is no ground to allow petitioner to examine handwriting and fingerprint expert. The suit is for specific performance. There is no ground to interfere in well reasoned orders of two Courts below. Therefore, revision petition is dismissed.

(KULDIP SINGH)
JUDGE

2.4.2019
sjks

Whether speaking order	:	Yes	/	No
Whether reportable	:	Yes	/	No