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

**Civil Revision No.3146 of 2018 (O&M)
Date of Decision: 06.09.2019**

Balwan and others

.....Petitioners

Vs

Rajbir and others

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. B.K. Bagri, Advocate
for the petitioners.

Mr. R.A. Sheoran, Advocate
for respondents No.1 to 3 and 4(a).

RAJ MOHAN SINGH, J.

[1]. Petitioners have preferred this revision petition against the orders dated 03.10.2017 and 21.11.2017 passed by the Civil Judge (Sr. Divn.) Charkhi Dadri vide which the applications filed by the plaintiffs to serve defendants through Munadi in a suit under Order 1 Rule 8 CPC were allowed and defendants No.2 to 90 and 93 to 186 were proceeded against *ex parte*.

[2]. Perusal of the plaint would show that defendants No.1 to 9 are shown to be the residents of village Mori, Tehsil & District Dadri. Defendants No.10 to 12 are shown to be the

residents of village Barani Tehsil & District Jhajjar. Defendants No.13 to 78 are again shown to be the residents of village Mori, Tehsil & District Dadri. Defendants No.79 to 84 are shown to be the residents of village Barani, Tehsil & Distt. Jhajjar. Defendants No.85 to 90 are shown to be the residents of village Mori, Tehsil & Distt. Dadri. Defendants No.91 and 92 are shown to be the residents of village Kheri Sanwal and no District has been shown. Defendants No.93 to 101 are shown to be the residents of village Barani, Tehsil and District Jhajjar. Defendants No.102 to 116 are shown to be the residents of village Mori, Tehsil & District Dadri. Defendants No.117 to 126 are shown to be the residents of village Barani, Tehsil and District Jhajjar. Defendants No.127 and 128 are shown to the residents of village Mori, Tehsil and District Dadri. Defendants No.129 to 146 are shown to be the residents of village Barani, Tehsil and District Jhajjar. Defendants No.147 to 187 are shown to be the residents of village Mori, Tehsil and District Dadri and proforma defendants No.188 to 190 are also shown to be the residents of village Mori, Tehsil and District Dadri.

[3]. Perusal of the impugned order (Annexure P-2) would show that the objection with regard to the maintainability of the suit on the basis of territorial jurisdiction was decided by observing that the suit land is situated in village Tikan Khurd,

Tehsil and District Charkhi Dadri within the territorial jurisdiction of the Civil Court at Charkhi Dadri.

[4]. Evidently, as per memorandum of parties of the suit, the land in question is not shown to be situated in the revenue estate of village Tikan Khurd, Tehsil and District Dadri, rather the same is pleaded to be situated in three different villages namely Mori, Tehsil and District Dadri, Village Barani, Tehsil and District Jhajjar and village Kheri Sanwal without mentioning the District. It appears that the trial Court has proceeded to decide the objection with regard to the territorial jurisdiction by observing the requirement of Order 1 Rule 8 CPC on the basis of application filed by the plaintiffs to serve 190 defendants by means of substituted service.

[5]. As per requirement of Order 5 Rule 11 CPC, where more than one defendants are involved, the service of summons shall be made on each of the defendants. However in case of filing of suit under Order 1 Rule 8 CPC, the suit can be filed in a representative capacity for the benefit of all persons so interested. Under Order 1 Rule 8 CPC, the Court shall give notice of the institution of the suit to all persons so interested either by personal service or where by reasons of the number of persons or any other cause such service would not reasonably practicable by public advertisement as the Court in each case

may direct.

[6]. Under Order 1 Rule 8(3) CPC any person on whose behalf or whose benefit a suit is instituted or defended under sub-rule(1) CPC may apply to the Court to be made a party to such suit. Evidently, the aforesaid provision is for the plaintiff or the defendant, who has not been arrayed as party to the suit, but in view of Order 1 Rule 8(2) CPC, the personal service has to be resorted to at the first instance or whereby reasons of number of persons or any other cause such service is not reasonably practicable, then by means of public advertisement such persons can be served. The impugned orders are also silent with regard to the aforesaid requirement of law.

[7]. It appears that the *munadi* has been effected. Evidently as per pleadings of the plaintiffs, the land is situated in three different villages. The impugned orders are silent with regard to the territorial jurisdiction of the Court and also with regard to the satisfaction recorded by the Court in respect of compliance of Order 1 Rule 8(2) CPC. Even if defendant No.1 has appeared in the suit, the trial Court in my considered opinion is not justified to proceed against *ex parte* qua respondents No.2 to 9 and 93 to 186.

[8]. Even nothing has been brought on record as to whether

the *munadi* was conducted in different villages or the defendants as shown in the plaint are really residents of those villages in which they have been impleaded.

[9]. In any case the case cited by learned counsel for the respondents i.e. **Abdul Rehman (deceased) and others vs. Jumma Khan and others, (2002) 3 RCR (Civil) 177; Amarjit Singh and others vs. Darshan Singh Mahoon and others, (1979) AIR (Punjab) 208** and **Shri Sanatan Dharam Education Society (Registered) and another vs. Anil Goyal and others vs. Ajay Goyal and others, (2013)1 R.C.R. (Civil) 658** are on different proposition wherein the issue in respect of permission granted by the Court under Order 1 Rule 8 CPC was the subject matter. It was held that the factum of permission having been granted or otherwise would be decided during the proceedings of the suit. No such proposition is involved in the present case. The case involves non-compliance at the very inception of the suit and such a course cannot be allowed in the manner as suggested by the trial Court.

[10]. In view of aforesaid reasons, the impugned orders dated 03.10.2017 and 21.11.2017 passed by the Civil Judge (Sr. Divn.) Charkhi Dadri are set aside. The trial Court shall proceed to serve the defendants afresh on the basis of mandatory requirement of law after taking into consideration the provisions

in terms of Order 5 Rule 11 CPC, Order 1 Rule 8 CPC and thereafter proceed to decide the suit in accordance with law.
Revision petition stands disposed of.

September 06, 2019
Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No