

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

CR No. 3367 of 2018(O&M)

Date of decision: 08.05.2019

Kanhiya and others

... Petitioners

Vs.

Jai Parkah and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ashok Kauhik, Advocate
for the petitioners.

Mr. Keshav Pratap Singh, Advocate for the respondents.

AMIT RAWAL J. (Oral)

CM-10361-CII-2018

This is an application for impleading the legal representatives of petitioner No.2- Sher Singh, who is stated to have expired on 08.02.2016.

Learned counsel for the respondents has no objection, if the application is allowed.

In view of the above, civil miscellaneous application, which is duly supported by an affidavit, is allowed. The persons mentioned in para No.2 of the application are impleaded as legal representatives of petitioner no.2.

Amended memo of parties is taken on record.

CR No. 3367 of 2018

Present revision petition is directed against the impugned order dated 30.01.2018 whereby application for setting aside ex-parte judgment and decree dated 11.10.2002 and ex-parte order dated 2.2.2000 has been allowed.

Mr. Ashok Kaushik, learned counsel for the petitioners submitted that the petitioners-plaintiffs had filed a suit for declaration and injunction against the respondents by impleading M/s Award Securities Pvt. Ltd. as defendant/respondent No.7, for service summons were sent through ordinary process as well as by registered AD. Even publication was also done but despite that respondent No.7 did not appear and accordingly was proceeded against ex-parte, resulting into ex-parte judgment and decree dated 11.10.2002 was passed.

An application for setting aside the judgment and decree was hopelessly barred by law of limitation as explanation in not filing on time was conspicuously absent. Contents of the application further revealed that the petitioners had also submitted the other address but it was of no avail as defendant no.7 was not stated to be residing at that address and all these facts were not taken into consideration by the trial Court and thus the judgment and decree is liable to be set aside.

Per contra, Mr. Keshav Pratap Singh, learned counsel for the respondent submitted that during pendency of the suit, the plaintiffs had relinquished their title in favour of the defendant No.7 by way of registered sale deed in the year 1998. However, they never disclosed about the pendency of civil suit which decreed ex-parte on 11.10.2002 and urges for dismissal of the revision petition.

I have heard learned counsel for the parties and perused the paper book and of the view that there is no force and merit in the submissions of learned counsel for the petitioners.

The factum of relinquishment of title by the plaintiffs in favour of defendant No.7 has not been disputed. The address of respondent No.7 with regard to old one and the new are the same and if the service upon defendant no.7 was not effected, even then fresh address was required to be furnished by the plaintiffs. Further more , the publications for service of defendant No.7 were made in the local newspaper 'Dainik Mewat'. But there is no evidence on the file that such publication had been in circulation in the Delhi area.

In view of the above, no ground is made out to interfere in the impugned order.

Dismissed.

(AMIT RAWAL)
JUDGE

08.05.2019
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Whether Speaking/Reasoned Yes/No
Whether Reportable Yes/No