

CR-4836-2018 (O&M)

209

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4836-2018 (O&M)

Date of decision : 16.01.2019

Satish Walia

... Petitioner

Versus

Parveen Kumar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Ms. Priyanka Walia, Advocate
for the petitioner.

Mr. Ravindra Jain, Advocate
for respondent Nos.1 to 12.

Mr. R.P. Singh Ahluwalia, Advocate
for respondent Nos.16 and 17.

AMIT RAWAL, J. (ORAL)

The short point involved in the present revision petition is that whether the application for leave of Court to file a suit under Section 92 of the Code of Civil Procedure, can be allowed, in the absence of any separate order/leave of the Court. By leaving the question open to be determined by the trial Court, but the fact of the matter is that the impugned order, does not assign any reasons i.e. particularly to the contentions of the petitioner. For the sake of brevity, the operative part of the impugned order reads as under:-

"Notice issued to defendants no. 3 to 7, 9 and 11 could not be issued through publication in newspaper 'Chadti Kalan' as publication charges were not deposited by plaintiff despite specific direction to him that suit qua these defendants shall

CR-4836-2018 (O&M)

dismissed if notice is not got issued by the plaintiff. In view of order dated 17.05.2018 suit qua defendants no. 3 to 7, 9 and 11 is hereby dismissed.

Arguments on application under Section 92 of CPC heard. Keeping in view the fact that this application was moved by the plaintiff at the time filing of the suit. Notices were ordered to be issued by the Court on the same date meaning thereby the application under Section 92 of CPC was entertained by the Court and allowed. However, no specific order was passed in this regard. Thus, application under Section 92 CPC is disposed of keeping in view the foregoing circumstances.

Written statement on behalf of defendant no. 13 be filed on 10.07.2018. It shall be the last opportunity."

The trial Court was required to give detailed reasons by referring to the various provisions of the case law. For the reasons aforementioned, the impugned order, under challenge, is set aside. The trial Court is directed to pass the specific order after hearing the parties to the *lis*, while deciding the application seeking leave of the Court to file the suit under Section 92 of CPC.

With the aforesaid observations, the present revision petition stands disposed of.

16.01.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**