**IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH**

**Civil Revision No. 557 of 2016(O&M)**

**Date of Decision: March 14 , 2019**.

Phool Chand ..... PETITIONER (s)

**Versus**

Harcharn Singh and others ..... RESPONDENT (s)

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. K.S.Rekhi, Advocate
for the petitioner.

Ms. Bahaar Ghuman, Advocate for
Mr. Prateek Mahajan, Advocate
for respondent No.1.

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1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

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**LISA GILL, J.**

Despite opportunity, neither correct address of respondent No.2 has been supplied nor any steps taken for effecting service upon her in terms of order dated 30.10.2018. Accordingly, the present petition stands dismissed qua respondent No.2.

IO stands disposed of.

With the consent of learned counsel for the parties, the main revision petition is taken up for final disposal.

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This petition has been filed for setting aside orders dated 14.03.2014 (Annexure P2) and 08.09.2015 (Annexure P3) passed by the learned Rent Controller, Amritsar and the learned Additional District Judge, Amritsar, respectively, whereby application under Order 9 Rule 13 read with Section 151 CPC filed by the petitioner-tenant for setting aside ex parte ejectment order dated 08.02.2002, has been dismissed.

Brief facts necessary for the adjudication of the case are that, a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (for short, the 'Act') was filed by the respondent-landlord seeking eviction of the present petitioner from the shop as described in the petition on the ground of,

(i) non-payment of arrears of rent,

(ii) Tenant ceased to have occupied the shop for the last more than two years from the date of filing of the petition, and

(iii) The shop in question had become unfit and unsafe for human habitation.

Petitioner was duly served in this petition. He was also served through publication in the newspaper Chardikala dated 29.12.2001, but he chose not to join the proceedings. Ultimately, the petitioner was proceeded against ex parte vide order dated 12.03.2001. Petition filed by the respondent-landlord was allowed by the learned Rent Controller, Amritsar vide order dated 08.02.2002 (Annexure P1).

An application under Order 9 Rule 13 read with Section 151 CPC was moved by the petitioner on 20.09.2003 for setting aside order dated

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08.02.2002 on the ground that the summons issued by the court were never received by the petitioner, neither he ever refused to accept the summons. No registered cover was ever received by him and he was not served in accordance with law. Said application was dismissed by the learned Rent Controller, Amritsar vide impugned order dated 14.03.2014. Learned Rent Controller, Amritsar noted as under:-

> "11. Original file has been called and perused. Perusal of the file would show that on 27.5.2000, the respondent was ordered to be summoned for 29.7.2000. On 29.5.2000, an application under Order 26 Rule 9 CPC was filed and case was adjourned for the purpose already fixed. On 29.7.2000, summons were received that the shop has been lying closed and the petitioner was directed to furnish correct address of the respondent and then notice was ordered to be issued to the respondent for 29.9.2000. On 29.9.2000, the respondent was not served and the registered cover was received unclaimed and again the notice was again ordered to be issued on filing of PF/RC and correct address for 11.12.2000. Since it was reported that the shop was lying locked. On 11.12.2000, the registered cover containing summons received back with the report that on many occasions, the addressee is not found and it be deemed to be refusal and then the court recorded its satisfaction that the respondent could not be served through an ordinary manner and then the respondent was ordered to be summoned through publication in newspaper Chardi Kala on deposit of necessary expenses for 9.3.2001. In the ejectment petition, the address of the applicant Phool Chand has been shown to be as shop no.1945/XIV-16 Opposite Essama Woollen Mill, GT Road, Putligarh, Amritsar.

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12. Vide Ex.R2 has been registered cover it stands revealed that notice had been issued to the applicant at the address house no.655, Gali Banian, Chowk Laxmansar, Amritsar. Ex.R3 has been copy of acknowledgment. Ex.R4 and R5 also shows sending registered letter at the address of the shop.
13. Vide Ex.RIO there has been report made by postal authorities that the addressee is not present on many occasions and evading the service of summons.
14. Ex.R13 and Ex.14 has been postal receipt bearing postal receipt number 1601 and 1602 regarding the service of summons for 29.9.2000 which has been pertaining to sending of registered cover at the address 655, Gali Banian, Chowk Laxmansar, Amritsar as well as the address of shop Essama Woolen Mill, GT Road, Putligarh, Amritsar."

It is observed that the petitioner was duly served by way of substituted service. Reports of the postal authorities were considered as well and application under Order 9 Rule 13 CPC was accordingly dismissed vide impugned order dated 14.03.2014. Appeal filed by the present petitioner was also dismissed by the learned Additional District Judge, Amritsar vide order dated 08.09.2015. Aggrieved therefrom, the present revision petition has been filed.

Learned counsel for the petitioner argues that substituted service by way of publication in newspaper Chardikala is not sufficient for the reason that this newspaper does not have wide circulation in the area in which the petitioner is normally residing. Therefore, it is prayed that the impugned orders be aside.

Learned counsel for respondent No.1 refutes the abovesaid averment and submits that impugned orders have been passed on appreciation of the facts and evidence on record. Dismissal of the petition is prayed for.

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I have heard learned counsel for the parties and have gone through the record.

Learned counsel for the petitioner is unable to point out any illegality or irregularity in the impugned decisions. Bald assertion of the petitioner that the newspaper Chardikala does not have much circulation in the area where the petitioner resides, is not sufficient to conclude that service upon the petitioner was not complete. There is indeed no evidence on record to indicate that service upon the present petitioner was not effected in accordance with law. Learned counsel for the petitioner is unable to furnish a copy of application under Order 9 Rule 13 CPC. It is apparent that the petitioner was duly served in the petition filed by the respondent-tenant under Section 13 of the Act, but he chose not to join the proceedings. He was duly served by way of substituted service. It is fairly stated by learned counsel for the petitioner that possession of the demised premises was taken by the respondent-landlord through process of law in the year 2002 itself.

No other argument has been raised.

There is no illegality, perversity or infirmity in the impugned orders dated 14.03.2014 and 08.09.2015 passed by the learned Rent Controller, Amritsar and the learned Additional District Judge, Amritsar, respectively, which call for any interference by this Court in exercise of revisional jurisdiction.

Revision petition is accordingly dismissed with no order as to cost.

**( LISA GILL )**
**JUDGE**

March 14 , 2019.

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

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