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

**Civil Revision No.5992 of 2016
Date of Decision: 31.05.2019**

Pinki Yadav

.....Petitioner

Vs

Anil Yadav and others

....Respondents

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

Present: Mr. Sanjay Vij, Advocate
for the petitioner.

Mr. Adiyta Singh Yadav, Advocate
for respondents No.3, 4 and 6.

RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this revision petition against the order 12.07.2016 passed by the Civil Judge (Jr. Divn.) Gurgaon (now Gurugram) vide which the prayer for setting aside the order dated 20.11.2013 proceeding against *ex parte* against the petitioner was dismissed.

[2]. Perusal of the record would show that a suit for declaration and consequential relief of permanent injunction was filed by Anil Yadav, who is none else, but husband of the petitioner. Petitioner was arrayed as proforma defendant No.6 in the suit. No relief was claimed against her by her husband.

There were allegations that the petitioner was attorney of defendant No.1, whereas defendant No.3 was attorney of her husband i.e. defendant No.2. There was dispute with regard to selling of land belonging to Hari Kishan Yadav/defendant No.1.

[3]. On 14.09.2016, notice of motion was issued to respondents No.1 to 3 and 6. Thereafter, vide order dated 14.08.2018, it was noticed that respondent No.1 has left the address and respondent No.6 was not found at the time of service of notice.

[4]. Today, learned counsel appearing on behalf of respondents No.3 and 4 also appeared on behalf of respondent No.6.

[5]. Learned counsel for respondents No.3, 4 and 6 submitted that even if respondent No.1 is not served, the petitioner cannot advance her case beyond the material on record, where she was only a proforma defendant No.6 being wife of the plaintiff. Petitioner has no interest in the property except to support the case of her husband. Learned counsel further submitted that respondents No.3, 4 and 6 are the contesting respondents. Respondent No.1 is none else, but is husband of the petitioner, therefore, he is not necessary to be served, as the petitioner and respondent No.1 are colluding with each other.

[6]. Perusal of the cross-examination of the plaintiff and cross-examination of the petitioner while appearing as DW-3 would show that the petitioner was having knowledge from the very inception about filing of the suit. In her cross-examination, she has admitted in the first two lines that the factum of filing of suit was known to her. No relief was claimed against the petitioner/proforma defendant No.6. She was proceeded against *ex parte* vide order dated 20.11.2013.

[7]. Perusal of order dated 02.11.2013 shows that the petitioner appeared in the Court in person and requested for adjournment for filing written statement. Signature of the petitioner dated 31.10.2013 at the corner of this order would not advance the case of the petitioner any further. The case has already reached the stage of arguments as both the parties have already led their evidence.

[8]. At this stage, setting aside of order dated 20.11.2013 would not be in the interest of the justice, particularly when the case has matured for arguments and the petitioner was only a proforma defendant. Plaintiff is the husband of proforma defendant No.6. No prejudice is going to be caused to the petitioner, who had voluntary opted not to contest the suit by filing written statement despite her appearance in the case.

[9]. In view of aforesaid, no ground is made out to interfere

in the impugned order. This revision petition is accordingly dismissed.

May 31, 2019

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Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No