

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

217

CR-6602-2018 (O&M)
Date of Decision:05.03.2019

Kamal Narang

....Petitioner

Versus

Rajeev Kapoor

....Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Gaurav Arora, Advocate for the petitioner.

AMIT RAWAL, J. (Oral):-

The present Revision Petition is directed against the impugned order dated 29.03.2017 (Annexure P-1), passed by learned Civil Judge (Junior Division) Faridabad and order 19.05.2018 (Annexure P-2), passed by the learned District Judge, Faridabad, whereby the civil suit of the petitioner was dismissed for non-payment of the cost of Rs.1,000/- for non-furnishing of the correct address of the defendants.

Learned counsel appearing on behalf of the petitioner submitted that respondent had been changing the address time and again. Imposition of cost as per the order dated 29.03.2017 (Annexure P-1) was not informed to counsel and thus there was no willful default. The lower Appellate Court has also upheld the order that it should not be too harsh in dismissing the appeal by imposing more cost to meet the ends of justice.

I have heard learned counsel for the petitioner and carefully gone through the paper book and of the view that conduct of the petitioner had been cavalier as for almost three years, he had not furnished the correct address.

Order 9 Rule 2 of the Code of Civil Procedure, produced herein below, empowers the Civil Court to dismiss the suit when the summons are not served in consequence of plaintiff's failure to pay costs.

The impugned order dated 29.03.2017 (Annexure P-1) reveals that fresh address of the defendant was not furnished for the last so many dates. In order to put caveat on the conduct of the plaintiff-petitioner, cost of Rs.1,000/- was imposed, which was also not paid. It cannot be ruled out that the non-communication of the order of payment of cost to some extent can be attributed to the lawyer. The whole approach of the litigant in wasting the time of the Court, when the suit was pending without effecting the service due to non-furnishing of the correct address nothing but aberrative.

Be that as it may, in order to see the bonafide of the petitioner in pursuing the suit, I deem it appropriate to grant one more opportunity to the petitioner to furnish the correct address on payment of cost of ₹3,000/- over an above another ₹1,000/- to the same Department as effected in the order, subject to condition that he will furnish the address within a period of two weeks and then also, take appropriate steps for effecting the service by *dasti* process.

Revision Petition is accordingly disposed of.

Let the order be communicated to the concerned Court for compliance.

05.03.2019
anju rani

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	:	Yes
Whether reportable	:	No