

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

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CR-6646-2018

Date of Decision : December 09, 2019

BUTA SINGH AND ANR

.....Petitioners

VERSUS

AMRIK SINGH

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Ms. Anu Sharma, Advocate for
Mr. Rahul Rampal, Advocate
for the petitioners.

NIRMALJIT KAUR, J. (Oral)

The present revision is filed against the order dated 31.1.2015 vide which the Civil Judge (Jr. Divn) Ludhiana dismissed the application under Order 9 Rule 13 CPC filed by the petitioners for setting aside the exparte judgment and decree dated 24.7.2010 as well as the order dated 21.5.2018 passed by the Additional District Judge, Ludhiana vide which the appeal against the order dated 31.1.2015 was dismissed.

While praying for setting aside the order, learned counsel for the petitioners submitted that the respondent in connivance with the authorities have shown the petitioners as having been served through the mother, whereas, identity of the mother of the petitioners was not ascertained by the Process Server. As per the statement of the witnesses, one Joginder Nath, Member Panchayat was present at the time of refusal, whereas, in the evidence of the Process Server, there is a mention of one Joginder Kaur, Panch which in itself shows that there was no service effected upon the petitioners and the report of refusal was procured.

Heard.

In this case, Ram Lal was the Process Server. He appeared as RW1 and corroborated that he had served the summons upon them through the mother, who was present in the house but she refused to accept the summons and that he had also informed her about the next date of hearing and the name of the Court. He also pasted the summons alongwith the copy of the plaint, outside the house which he did in the presence of Joginder Kaur, Panch of the village. Moreover, the summons were sent not once but thrice and each time they were effected upon the mother of the petitioners but each time she refused to accept the same. They were issued against the defendants on 6.1.2009, 16.3.2009 and 4.8.2008 but each time it has been received back with the report of refusal. This Court at first thought that there was no reason for the petitioners to allow the exparte proceedings to be initiated against them, in case, they knew about the same. However, it is probably on account of the fact that the Court issued the summons thrice after it was refused the first and second time, and therefore, the petitioners presumed that this would go on and they would be safe each time after refusal. **Even otherwise, it is admitted that the decree has since been executed and the possession has already been handed over to the respondent.**

Accordingly, this Court finds no ground to interfere in the impugned order.

Dismissed accordingly.

December 09, 2019
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(NIRMALJIT KAUR)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No