

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 1126 of 2019
Date of decision:27.2.2019

Jyotasana

.. Petitioner

v.

Sanjiv Yadav and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Mohan Singh Rana, Advocate for
Mr. S. K. Panwar, Advocate for the petitioner.

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AVNEESH JHINGAN, J. (Oral)

The present civil revision petition has been filed being aggrieved of the order dated 29.1.2019 passed by the Civil Judge (Junior Division), Gurugram (hereinafter described as 'Civil Court') disposing of the application under Order IX Rule 7 read with Section 151 of the Code of Civil Procedure, 1908 (for short, 'CPC').

The facts in brief are that respondent No. 1-plaintiff (hereinafter described as 'respondent No. 1') filed a suit for permanent injunction against the petitioner and respondents No. 5 and 6- defendants No. 1 and 3 (hereinafter described as 'respondents No. 5 and 6'). The suit was filed in April, 2007. Upon notice, respondents No. 5 and 6 appeared in the suit and filed written statement. The summons were issued to the petitioner but the same were received back with the report that her sister-in-law Madhu Yadav wife of Arvind Yadav (respondent No. 5) disclosed that

the petitioner is married in Delhi. The summons were again issued which were received back with the same report. As per the procedure laid down, publication was ordered and was duly done. The petitioner was proceeded *ex- parte* vide order dated 22.3.2013. An application under Order IX Rule 7 CPC for setting aside the *ex-parte* order was moved on 22.1.2019. In the application, it was pleaded that the petitioner came to know about the pendency of suit only on 15.1.2019 when her uncle Dinesh Yadav, who appeared in the case, gave a telephonic call that the petitioner is a party to the suit. Vide impugned order, the application was dismissed hence the present civil revision petition.

Learned counsel for the petitioner contends that the Civil Court erred in ordering that the petitioner shall join the proceedings at the existing stage as there was no valid service of the summons on the petitioner. He further contends that the petitioner got married and shifted to Delhi and was not aware of the proceedings.

The contentions raised by learned counsel for the petitioner are not well-founded. It has nowhere been pleaded or proved that the petitioner was not having good relations with her mother and brother (respondents No. 5 and 6). The summons issued on the last known address were returned back by the sister in law of the petitioner, i.e. wife of brother of the petitioner. The Delhi address was not furnished, thereafter publication was also duly done.

There is another aspect of the matter that mother and brother of the petitioner were already defendants in the suit. They were duly served and filed the written statement. Respondents No. 1 to 4 had been contesting the suit since 2007. The petitioner was proceeded *ex-parte* in 2013. Even

for moving an application for setting aside the *ex-parte* order, she waited for almost six years.

The entire endeavour of the petitioner appears to delay the proceedings. First at the time of service of summons and thereafter waiting for six years for moving an application for setting aside the *ex-parte* order, which only strengthen the fact that the petitioner wants to delay the outcome of the suit.

The relationship with the so-called uncle-Dinesh Yadav has also not been specified. There is nothing on the record to show that the so-called uncle was more nearer than the mother and brother of the petitioner. The stand of the petitioner that she was not aware of the proceedings and only gained knowledge in January, 2019 is not bonafide. The Civil Court has permitted the petitioner to join the proceedings at the existing stage.

No interference is called for in the impugned order.

The present revision petition is dismissed.

(AVNEESH JHINGAN)
JUDGE

27.2.2019
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No