

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

CR-3280-2019 (O&M)

Date of Decision: 19.08.2019

Anju Rani

..... Petitioner

Versus

Lekh Raj

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. A.S. Manaise, Advocate
for the petitioner.

SUDIP AHLUWALIA J. (ORAL)

1. The Civil Suit No.927-A dated 19.03.2013 for possession by way of specific performance of an agreement to sell dated 22.08.2012 was decreed exparte on 28.11.2013 in favour of the respondent/plaintiff by the Court of Ld. Civil Judge (Jr. Divn.), Ludhiana.

2. The petitioner, who was the defendant in the suit, about 2½ years later (on 13.05.2014) filed an application under Order IX Rule XIII read with Section 151 Code of Civil Procedure for seeking setting aside of the exparte decree dated 28.11.2013 passed against her. It was her contention that no summons were served upon her in the suit, and, no valid service having been affected, the exparte judgment and decree were liable to be set aside. It was her further contention that she learnt about the decree only on 09.04.2014 on visiting the Office of the Halqa Patwari.

3. The petitioner's application for restoration of suit was dismissed by Ld. Trial Court, vide the order dated 04.07.2017,

dismissed by the Ld. Additional District Judge, Ludhiana vide the impugned judgment dated 27.03.2019.

4. This Court has perused both the judgments. It transpires that summons in the suit were served upon the petitioner through her husband Sh. Rajesh Kumar at her proper residential address. Her husband's signature on the summons was admitted before the Trial Court. It was nowhere the case of the petitioner that her relations with her husband were strained, and admittedly she was all along residing with him in the same house. As such, service upon her was valid in view of Order V Rule 15 of the Civil Procedure Code, since husband is undoubtedly an adult member of the defendant's family. The Ld. Trial Court nevertheless by way of abundant caution even thereafter, directed additional service by substituted means, by way of effecting 'Munadi', which was also done properly.

5. In such circumstances, both the Ld. Courts below were right in coming to the conclusion that the excuse of non-service of summons raised on behalf of the petitioner was misleading and not tenable.

6. Therefore, no grounds are made out to interfere with the impugned order.

7. Dismissed.

19.08.2019

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(SUDIP AHLUWALIA)
JUDGE