

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

CR-6803-2019

Date of Decision: 30.10.2019

Karan Singh and others

... Petitioners

Vs.

Jasbir Singh and another

... Respondents

CORAM : HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. Navneet Singh, Advocate
for the petitioners.

NIRMALJIT KAUR, J. (Oral)

This civil revision petition is filed for setting aside the impugned judgment dated 07.08.2019 vide which application filed under Order 9 Rule 13 of CPC for setting the judgment and decree dated 4.12.2006 was allowed.

Learned counsel for the petitioners while praying for setting aside the impugned order dated 7.8.2019 submitted that the application filed under Order 9 Rule 13 CPC has been allowed after a gap of almost 7 years. Secondly, the respondent was duly served through publication in newspaper namely 'Dainik Mewat'. It is further submitted that the respondent used to reside with his maternal uncle in the village called Rani Ka Singhola.

Heard.

A perusal of the impugned order shows that as per the record all the notices issued to the respondent were received back with a specific report that the said respondent was not residing in the village namely Rani Ka Singhola. In these circumstances, the publication in the newspaper namely 'Daini Mewat' which is stated to be circulated in the village Rani Ka Singhola is of no use and cannot be said to be a proper service. The second

argument that the respondent was residing in the village with his maternal uncle has no basis in view of the specific report over the notices of registered post that the respondent was not residing in the said village. Therefore, the said averments is not supported by any evidence.

At this stage, argument raised by the learned counsel for the petitioners that the mother of the respondents belongs to the village Rani Ka Singhola too does not help as she is stated to have got married in village Hazartpur and was residing in the said village. No one was found in the village Rani Ka Singhola by the name of Jasbir Singh. Hence, under no circumstances, the applicant can be said to have been served.

The next argument raised by the learned counsel for the petitioners that the application filed under Order 9 Rule 13 of the CPC is allowed after a delay of almost 7 years too does not help as the delay has to be reckoned from the date of service or date of knowledge. In the present case, once it is established that the applicant-respondent was not served, it cannot be held that he had knowledge of the alleged judgment and decree during the period.

In view of the above discussion, this civil revision petition is dismissed being devoid of merit.

30.10.2019
rajeev

(NIRMALJIT KAUR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No