

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-2391-2020 (O&M)
Date of Decision: 16.10.2020

Mrs. Arti Sharma

....Petitioner

Versus

M/s Gurshant Electricals Pvt. Ltd.

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Rajesh K. Sheoran, Advocate, for the petitioner.

HARNARESH SINGH GILL, J. (ORAL).

Case is taken up for hearing through Video Conferencing.

Challenge in the present petition is to the orders passed by the Courts below, whereby an application under Order 9 Rule 13 CPC filed by the petitioner for setting aside the ex-parte order dated 24.03.2014 and judgment and decree dated 12.02.2015, has been dismissed.

Learned counsel for the petitioner contends that while dismissing the application under Order 9 Rule 13 CPC, both the Courts have wrongly held that the petitioner was duly served, whereas a perusal of the zimini order dated 07.10.2013 (Annexure P.3) passed by the trial Court would show that the service upon the petitioner was incomplete as her house was found locked. It is further contended that the order dated 24.03.2014 proceeding the petitioner as ex-pate is also

untenable for the reason that the publication had been carried out in an unapproved newspaper.

However, I do not find any merit in the contentions of the learned counsel for the petitioner.

The learned trial Court, while dismissing the application under Order 9 Rule 13 CPC recorded a finding that the petitioner had been served through her husband on 24.12.2013. Under issue No.1, the trial Court recorded a finding that it stood proved on record by Ex.R.1 that on 24.12.2013, the process server reached the house of the petitioner and when she was not found present there, the summons were received by her husband. It was further found that while appearing as AW1, the petitioner in her cross-examination had identified the signatures of her husband on the report Ex. R.1. It was yet further found the summons having been served upon the petitioner at her address given in Civil Suit No.62 of 2013 and the same having been received by her husband, who was residing with her on the said address at the given time, it could not be pleaded by her that she did not have any knowledge of the pendency of the civil suit. Still further, the application was also found barred by limitation.

The petitioner has unsuccessfully filed an appeal against the order passed by the trial Court.

While dismissing the appeal, learned District Judge, Faridabad, has also recorded a finding regarding the dishonest conduct of the petitioner in getting transferred her share in the house attached in execution proceedings in, favour of her son

and accordingly, costs of Rs.25,000/- was imposed upon the petitioner.

It could not been shown that the husband of the petitioner did not receive the summons on 24.12.2013. The application seeking setting aside of the ex-parte judgment and decree dated 12.02.2015, was decided on the basis of evidence led by the parties. No illegality or irregularity could be pointed out in the findings recorded by the Courts below.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

16.10.2020
ds

(HARNARESH SINGH GILL)
JUDGE

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