

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

**CR No. 10289 of 2018
Date of Decision: 14.01.2020**

Jaswant Rai Garg

....Petitioner

Versus

HFCL, Infotel Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. HPS Ghuman, Advocate
for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-petitioner is in revision petition against the order passed by learned trial Court setting aside ex parte decree while permitting respondent to contest the suit on merits. It has come on record that respondent-defendant was sought to be summoned through notice sent vide registered AD cover. However, the same was not received back served or otherwise. Thus, the Court drew presumption under Section 27 of General Clauses Act, 1897 that the service notice sent through registered post stand served. Hence, proceeded with the suit and decreed the same.

In execution petition, notice was sent to the Judgment Debtor. Whereupon defendant-respondent filed an application for setting aside ex parte decree and proceedings. It was pleaded in the application that defendant-respondent has never received summons sent either through ordinary course or under registered cover from the Court with regard to pendency of the suit. In support of the application, Manmeet Singh official from defendant company appeared and deposed before the Court. Learned trial Court on appreciation of evidence found that the presumption with

This Court has heard learned counsel for the parties at length and with their able assistance gone through the orders passed. Learned counsel for the petitioner submitted that under Section 27 of the General Clauses Act, 1897, there is statutory presumption of service of notice, once the notice sent through registered post has been sent via properly addressed registered envelop along with acknowledgment due. He, hence, submitted that the Court erred in setting aside the ex parte decree.

This Court has considered his submission. No doubt, Ld. Civil Judge has referred to missing acknowledgment from the file, however, in substance, the order is to the effect that the presumption under Section 27 of the General Clauses Act, 1897 stands rebutted. Learned counsel for the petitioner failed to draw attention of the Court to any other error in the order passed.

In any case, defendant has been granted opportunity to contest the suit for recovery of damages filed against it. In such circumstances, it would be in the interest of justice, if the defendant-respondent is granted opportunity to contest the suit on merits.

Dismissed.

(ANIL KSHETARPAL)
JUDGE

14.01.2020
Maninder

Whether speaking/reasoned	:	Yes
Whether reportable	:	No