

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

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**CR-2290 of 2017 (O&M)
Date of decision: 31.08.2022**

Kashmir Kaur

..Petitioner

Versus

Faqir Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Jaswinder Singh Rana, Advocate, for
Mr. Deepak Arora, Advocate
for the respondents.

ANIL KSHETARPAL, J(Oral)

While assailing the correctness of the judgment passed by the First Appellate Court, the plaintiff has filed the present revision petition.

An application filed under Order IX Rule 13 CPC for setting aside the ex-parte decree in a suit for possession by way of specific performance of the agreement to sell has been allowed. The Appellate Court has found that though it was reported to the court that the defendants refused to accept the summons, however, before recording the report of refusal, process server did not associate either the sarpanch or member panchayat or Lambardar of the village to ascertain identity of the defendants. The court also found that not only the address of the defendants was incomplete but two sets of summons were issued to two different process servers for the same date in the same case. The Appellate Court has also found that the trial court did not record satisfaction that the defendants, despite service or knowledge, have failed to appear. The view of the First Appellate Court is a plausible view.

In the considered opinion of the Court, while exercising the revisional justification, this court does not find it appropriate to interfere with the same, particularly when the defendants have only been granted an opportunity to contest the suit.

Dismissed.

The trial Court is requested to make sincere endeavours for expeditious disposal of the suit.

The learned counsel representing the petitioner claims that pursuant to the passing of the ex-parte decree, not only the sale deed was executed but even the possession of the suit property was delivered to the petitioner. If that is so, let the parties maintain status quo during the pendency of the suit.

All the pending miscellaneous applications, if any, are also disposed of.

August 31, 2022

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*