

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

CR-2976-2017 (O&M)

Date of decision: 24.08.2022

Rattan Singh (deceased) through his LRs

....Petitioners

Versus

Rajbeer and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.S.Hooda, Advocate for the petitioner

Mr. Amit Jain, Sr. Advocate with

Mr. Varun Parkash, Advocate for respondent no.1 to 3

ANIL KSHETARPAL, J (Oral)

The petitioner herein is a plaintiff. An application filed under Order IX Rule 13 of the Code of Civil Procedure, 1908, for setting aside ex parte decree has been allowed by the First Appellate Court, after noticing that defendant no.1 to 3 were never personally served. It has come on record that the summons sent to them were allegedly received by Rambir Singh, who was not related to them. The summons are neither witnessed by the Nambardar, Sarpanch nor Chowkidar of the Village. The deposition of Lal Chand, the Process server, has also been found to be suspicious. In one sentence, he says that when he visited the residence of defendant no.1 to 3, he found that Rambir is all alone in the house whereas after 2-3 sentences in his deposition, he states that there were many persons sitting there. Moreover, this Court has examined the original record. Sh.M.U.Hasan, Advocate, appeared on behalf of defendant no.1 to 3, however, neither his memo of appearance nor Vakalatnama in his favour executed by defendant no.1 to 3 is a part of

the record. Originally, a written statement was drafted on behalf of defendant no.1 to 3 alongwith defendant no.10 to 12, however, the names of defendant no. 1 to 3 were struck off. The written statement is not signed by anyone out of defendant no.1 to 3. The First Appellate Court has taken a plausible view of the matter.

Learned counsel representing the petitioner contends that the defendants have failed to explain as to how they came to know about the decree on 15.01.2014. While filing the application, defendant no.1 to 3 have asserted that they came to know of the decree when they saw the revenue record.

Keeping in view the aforesaid facts, no ground to interfere is made out.

Hence, dismissed.

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

24.08.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE