

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

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CR-3121-2018(O&M)

Date of decision: 09.08.2022

KULWINDER SINGH

..Petitioner

Versus

SIMRANJIT SINGH AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Akhilesh Vyas, Advocate
for the petitioner.

Mr. Jasinder Singh Thind, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

An application filed by the petitioner for setting aside the ex parte decree has been dismissed by both the Courts below. The petitioner herein was defendant No.4 in a suit for possession by way of specific performance of the agreement to sell. The petitioner along with his brother (defendant No.3) purchased the property after execution of the agreement in favour of the plaintiffs. The plaintiff impleaded subsequent purchaser as a party defendant. In the suit, the petitioner and his brother were sought to be served at D-101, Ranjit Avenue, Amritsar. Sh. Surjit Singh, the brother of the petitioner refused to accept notice of the suit, whereas, informed the process server that the petitioner resides in Jalandhar. Thereafter, the summons were sent to the petitioner through the Court of Civil Judge, Senior Division, Jalandhar. Sh. Davinder Singh, process server visited the house of the petitioner at House No.32, Green Avenue, Model Town, Jalandhar and requested the petitioner's son to receive the summons but he refused. A copy of the summons along with the plaint was pasted at the door of the house and a copy of the summons was returned with the aforesaid report.

After filing application under Order IX Rule 13, the petitioner did not appear in evidence. On the other hand, the decree holder examined Sh. Narender Singh, process server from District Court, Khadur Sahib, District Tarn Taran as well as Sh. Davinder Singh, process server from the Court of Civil Judge, Senior Division, Jalandhar. Both have concurrently supported the case of the decree holder and proved the report of refusal.

This Bench has heard the learned counsel representing the parties and with their able assistance perused the paperbook.

The learned counsel representing the petitioner submits that the petitioner is a resident of House No.30, Green Avenue, Model Town, Jalandhar and not a resident of House No.32, Green Avenue, Model Town, Jalandhar.

When Sh. Davinder Singh, process server appeared in evidence as RW-2, no suggestion regarding this was given to the aforesaid witness. In the absence thereof, the petitioner cannot be permitted to contend that he is residing in House No.30, Green Avenue, Model Town, Jalandhar and not in House No.32, Green Avenue, Model Town, Jalandhar. In any case, there is no evidence to prove that the petitioner's son is not residing in House No.32.

Both the Courts have taken a plausible view of matter.

Hence, no ground to interfere is made out.

Dismissed.

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

August 09th, 2022

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(ANIL KSHETARPAL)
JUDGE

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