

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-8259 of 2018(O&M)
Date of decision: 06.08.2022

M/s Rameshwar Dass Rajinder Kumar and another

..Petitioners

Versus

Baso Ram (since deceased) through LRs

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vinod Gupta, Advocate,
for the petitioner.

Mr. Rajinder Singla, Advocate
for the respondents.

ANIL KSHETARPAL, J(Oral)

Assailing the correctness of the order passed by the trial court as well as the First Appellate Court, the defendant has filed the present revision petition.

There is a judgment and decree for recovery of the amount in a suit filed on the basis of a cheque. On the notice issued, the defendant refused to accept the notice. The suit was decreed ex-parte in 2014. The petitioner filed an application for setting aside the same under Order IX Rule 13 CPC asserting that no summons were ever served on him. The respondent examined the process server Sh. Raj Pal. He proved that the summons were tendered to the petitioner but he refused to receive the same forcing him to paste the copy of summons along with copy of the plaint in the shop. It is not in dispute that that the petitioner is running a shop. The plaintiff and the defendant, both are the commission agents running their

business from the same market.

The learned counsel representing the petitioner while relying upon the judgment passed in **Sushil Kumar Sabharwal vs. Gurpreet Singh, 2002 (3) RCR (Civil) 431**, contends that if the report of refusal is not a witnessed by an independent witness, the same should be accepted but only with a pinch of salt.

This Court has carefully read the aforesaid judgment. In that case, the process server did not paste the summons along with the copy of the plaint at the spot. In the present case, the process server has pasted a copy of the summons along with the plaint but no independent witness was available there. The process server has appeared in evidence and proved the summons. Both the courts have taken a plausible view of the matter.

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

Hence, dismissed.

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

August 06, 2022

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**(ANIL KSHETARPAL)
JUDGE**

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