

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

125

CR-2486-2022 (O&M)
Date of decision: 13.09.2022

GOVT OF INDIA PRESS FARIDABAD THROUGH ITS MANAGER

....Petitioner

Versus

ARJUN SINGH AND ORS

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Kanhiya Soni, Advocate
for the petitioner.

MANJARI NEHRU KAUL. J. (ORAL)

Instant petition has been filed by the petitioner-defendant No.2 to impugn the order dated 31.10.2018 (Annexure P-4) vide which its application under Order 9 Rule 13 was dismissed and the appeal preferred against the aforementioned order before the learned Additional District Judge, Faridabad was also dismissed vide order dated 08.03.2021 (Annexure P-6).

Learned counsel appearing for the petitioner submits that the impugned order is patently illegal and suffers from material irregularity, hence, it cannot be sustained and deserves to be set aside. Learned counsel further submits that the petitioner-Department learnt about the *ex parte* judgment and decree dated 30.08.2011 a week prior to the filing of the application under Order 9 Rule 13 when the officials of the petitioner-Department were ascertaining the details of other cases relating to suit properties from the concerned Court and revenue authorities.

Learned counsel submits that the Courts below failed to appreciate that the petitioner-Department was impleaded as defendant No.2 during the

pendency of the suit and the service of summons was neither effected through notice nor through *munadi* upon the petitioner. Therefore, it was abundantly clear that the judgment and decree dated 30.08.2011 had been passed in gross- violation of the principles of natural justice.

I have heard learned counsel for the petitioner and perused the relevant material on record.

Petitioner-Department by way of an application under Order 9 Rule 13 was seeking the setting aside of *ex parte* judgment and decree dated 30.08.2011 on the ground that it was never served with summons in the suit and it was a week prior to the filing of the application under Order 9 Rule 13 that it learnt about the decision of the suit in question and also the factum of it being proceeded as *ex parte* therein.

It is a matter of record that the petitioner-Department was duly served before the trial Court and even an Advocate by the name of Mr. Deep Bhatia entered appearance on behalf of the petitioner after filing a duly executed power of attorney.

It further emanates from the impugned orders that the said counsel though regularly appeared and attended the proceedings of the case before the Court below, however, no written statement was filed by the petitioner as a result of which its defence was struck off. Thereafter, the counsel absented himself as a consequence of which the petitioner-Department was proceeded against *ex parte* vide order dated 01.09.2010.

Learned counsel for the petitioner has not been able to controvert these facts. Therefore, in the facts and circumstances, it is not open for the petitioner to turn around and now allege that it was neither served nor did it have

any knowledge about the pendency of the suit in question.

As a sequel to the above, the instant petition being devoid of merit is hereby dismissed.

(MANJARI NEHRU KAUL)
JUDGE

September 13, 2022

S.Sharma(syr)

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