

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-9228 of 2018 (O&M)
Date of decision: 21.11.2022

Maninder Sharma

..Petitioner

Versus

Neeraj Kumar and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashish Aggarwal, Advocate
for the petitioner.

Mr. Gurinderjit Singh, Advocate
for respondent no.5

ANIL KSHETARPAL, J(Oral)

1. Vide order dated 09.10.2018, the Civil Judge (Junior Division), Gurdaspur, has set aside the ex-parte final decree for partition of the property after concluding that respondent no.3 was never properly served. It has been found that Sh. Neeraj Kumar, Sh.Naresh Kumar and Smt. Raj Rani do not reside in the village and the process server was sent to their houses by the Courts twice, who reported this fact to the Court. On one occasion, the process server reported that Sh. Neeraj Kumar, Sh. Naresh Kumar and Smt. Raj Rani have shifted to village Sarna. Hence, the Court found that Munadi (local proclamation by the beat of drums) was not carried out properly.

2. The trial Court has further found that the publication of notice in the newspaper "Daily Chardi Kalan" was also insufficient as there is no evidence of the circulation of the aforesaid newspaper in the area concerned.

3. Challenging the correctness of the aforesaid order, the plaintiff has filed the present revision petition.

4.

This Bench has heard the learned counsels representing the

parties at length and with their able assistance perused the paper book.

5. The learned counsel representing the petitioner while reiterating the aforesaid facts submits that the trial court has erred in setting aside the ex-parte decree, particularly when in the execution of the decree, the possession has already been delivered to the petitioner.

6. This court has considered the submission of the learned counsels representing the parties.

7. The trial court has drawn a plausible conclusion on the basis of appreciation of material evidence available on the record. This Court while exercising the revisional jurisdiction under Article 227 of the Constitution of India is not required to interfere unless there is a material irregularity or error in the conclusion drawn that has resulted in the travesty of justice.

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

9. Dismissed.

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

November 21, 2022

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(ANIL KSHETARPAL)
JUDGE

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