

In the High Court of Punjab and Haryana, at Chandigarh**Civil Revision No. 143 of 2023****Date of Decision: 21.11.2023**

Ami Lal

... Petitioner(s)

Versus

Raju Achina

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Tarun Yadav, Advocate
for the petitioner(s).

Mr. Ravi Kumar Girdhwal, Advocate
for the respondent.

Anil Kshetarpal, J.

1. An *ex parte* decree for the recovery of amount has been set aside by the trial Court after concluding that the defendant (respondent herein) was not properly served with the notice issued by the Court. In this case, the plaintiff (petitioner herein) filed a suit for the recovery of ₹13,81,750/-. While filing the suit, the respondent was impleaded in the following manner:-

“Raju Achina son of Dharma son of Kashi Ram”

2. The respondent was proceeded against *ex parte* on the basis of the presumption that the registered notice sent to him has not been received back as served or otherwise for a period of 30 days. In the execution petition, the respondent was served with the notice. The respondent appeared and deposited certain amount, however, filed an application for setting aside the *ex parte* decree. It was disclosed that his correct name is “Rajbir son of Dharambir” and he never received any notice.

3. The trial Court has come to a conclusion that the respondent deserved to be granted an opportunity to contest the suit.

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4. The correctness of the aforesaid order has been challenged in this revision petition.

5. The learned counsel representing the petitioner contends that in the execution petition, the respondent was impleaded as “Raju Achina” and he was served with the notice. The learned counsel submits that the *ex parte* decree should not have been set aside in the facts of the case.

6. On the other hand, the learned counsel representing the respondent submits that the respondent never received the summons and this Court should not interfere in the order passed by the trial Court.

7. This Court has considered the submissions of the learned counsel representing the parties. It is evident that the complete name of the respondent was not disclosed in the plaint. Even the complete name of his father was also not disclosed. The Civil Court presumed that the respondent has received the notice sent through the registered post. Moreover, the scope of interference while exercising the revisional jurisdiction is limited. In the absence of any perversity or manifest error, the revisional Court is not expected to interfere. It would be noted here that depositing a part of the decretal amount by the respondent will not operate as an estoppel against him.

8. Keeping in view the aforesaid facts, no ground is made out to interfere with the impugned order passed by the trial Court. Hence, the present revision petition is dismissed.

(Anil Kshetarpal)
Judge

November 21, 2023

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No