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

CR-7549-2023

Date of decision: 14.12.2023

Surjeet Singh

...Petitioner

Versus

Jaswinder Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Ajay Kumar Chaudhary, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present revision petition has been filed by the petitioner/husband against the order dated 11.10.2023 (Annexure P-6) passed by the Court of Principal Judge (Family Court), Sirsa whereby the application filed by the petitioner under Order 5 Rule 20 CPC for effecting the substituted service of respondent has been dismissed.

2. The counsel for the petitioner submits that no doubt respondent is wife of the petitioner but they are having matrimonial dispute and petitioner has filed divorce petition and has also furnished the last known address of the respondent to the Court at the time of filing of the divorce petition but the summons sent to the respondent were received back with report of incomplete address. On this, the petitioner filed an application under Order 5 Rule 20 CPC to effect the substituted service of the respondent which was supported by an affidavit of the petitioner wherein it was specifically stated that the address as mentioned in the petition is correct and last known

address of the respondent and further it is the same address which was given by respondent in her petition filed under Section 9 of HMA. The counsel for the petitioner further submits that in these circumstances there was no ground for the learned trial Court to dismiss the application filed under Order 5 Rule 20 CPC with direction to the petitioner to furnish the correct address of the respondent forthwith and then to issue notice to the respondent through ordinary process and registered post, for the next date.

3. In the light of the above, this Court is of the view that the learned trial Court committed material irregularity while dismissing the application filed by the petitioner under Order 5 Rule 20 CPC. Accordingly, the impugned order is hereby set aside with a direction to the learned trial Court to pass a fresh order in conformity with the provisions of Order 5 Rule 20(1A) CPC, subject to furnishing of fresh affidavit by the petitioner, to the effect that the last known address of the respondent, which was also same as was given by the respondent and in her petition under Section 9 of HMA, is already provided to the Court, by the next date fixed in the divorce petition. The present petition is disposed of in aforesaid terms and the petitioner is directed to appear before the learned trial Court on the date already fixed for the further proceedings and to do needful by filing the requisite affidavit.

4. Keeping in view the nature of order being passed, no notice is required to be issued to the respondent. However, if she feels dis-satisfied with this order, she may move an application to recall the same.

14.12.2023

Yogesh

Whether speaking/reasoned:-
Whether reportable:-

(KARAMJIT SINGH)
JUDGE

Yes/No
Yes/No