

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

Civil Revision No. 7817 of 2023 (O&M)

Date of Decision: 22.12.2023

Guramandeep Singh Pelia

...Petitioner

Versus

Ruchika Deepak Pelia

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Dharam Bir Bhargav, Advocate
for the petitioner.**

KARAMJIT SINGH, J.

1. The present revision petition has been filed by the petitioner/ plaintiff against the order dated 08.12.2023(Annexure P-7) passed by Family Court, SAS Nagar, Mohali 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 who is now residing in Canada has already 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 that respondent who was earlier residing in the given premises as a tenant has already vacated the said premises. The counsel for the petitioner further submits that respondent who is native of Maharashtra may have gone back to her native place. That, however, the petitioner/ his attorney is not aware of the address of her native place. On this, the petitioner filed an

application under Order 5 Rule 20 CPC to effect the substituted service of the respondent wherein it was specifically stated that the address as mentioned in the petition is correct and last known address of the respondent. 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 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 with observation that the same is premature at this stage. Accordingly, the impugned order is hereby set aside with a direction to the learned trial Court to pass afresh order in conformity with the provisions of Order 5 Rule 20(1-A) CPC subject to furnishing of the requisite affidavit by petitioner/ his attorney in support of the aforesaid application. The needful is to be done by the petitioner by the next date fixed before the Family Court with direction to the said Court to reconsider the application filed by the petitioner under Order 5 Rule 20 CPC on the next date fixed in the divorce petition, in accordance with law. The present petition is disposed of in aforesaid terms.

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.

22.12.2023

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(KARAMJIT SINGH)
JUDGE

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