

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2914 of 2015 (O&M)
Date of Order:04.04.2024

Lakhwinderjit Singh

.Petitioner

Versus

Dalrajinder Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Sanjeev Kumar Bawa, Advocate
for the petitioner.**

**Ms. Raina S. Thakur, Advocate
for the respondents.**

ANIL KSHETARPAL, J

1. BRIEF FACTS OF THE CASE

1.1 The petitioner in this revision petition has assailed the correctness of the order passed by the trial court allowing the application filed by the respondents under Order IX Rule 13 of the Code of Civil Procedure, 1908, after coming to a conclusion that they were minors and wrongly proceeded against ex-parte.

2. ARGUMENTS ADDUCED

2.1 The learned counsel representing the petitioner has made the following submissions:-

- (i) The application has been decided by the Court of Sh. Parvinder Singh Ghotra, Civil Judge (Junior Division), Amritsar, which was not a successor Court of Smt. Daljit Kaur, Civil Judge (Junior Division), Amritsar.
- (ii) The petitioner was not served properly as the publication

was made in a newspaper "Nawa Jamana", which has no circulation in the area.

- (iii) The title of the application has been wrongly given as the applicants have been reflected on the top, whereas the plaintiff has been placed at the place of defendants.

3. **DISUCSSION BY THE COURT:**

3.1 This court has considered the submissions of the learned counsel representing the parties.

3.2 It has come on record that the plaintiff filed a suit for grant of decree of declaration that he is owner in possession of 141 kanals and 17 marlas of land. He filed the suit against Sh. Dalrajinder Singh alias Dilraj Singh and Sh. Sukhwinderpal Singh. Both these defendants were claimed to be major. In the application as well as in the evidence, it came on the record that the defendants are minors aged 8 years and 11 years respectively. It is thus evident that the plaintiff has tried to play fraud with the defendants. He has not impleaded them in accordance with law. A minor is required to be impleaded through a Guardian-ad-litem. Moreover, when the application was filed, notice was issued to the petitioner who was plaintiff before the trial court on the address given by him in the plaint. However, the plaintiff avoided receiving the summons. Hence, the court ordered publication. The newspaper in which publication has been made has a wide circulation in the State of Punjab. The suit was filed in Amritsar. The correctness of the plaintiff's address is not disputed.

3.3 With respect to the argument of the learned counsel representing the petitioner that the application has been filed before a different Court, it may be noticed that in the States of Punjab and Haryana,

all the Presiding Judges who are posted as Civil Judge (Junior Division) or (Senior Division) have unlimited pecuniary jurisdiction. The aforesaid judges are empowered to decide the cases in the entire territorial jurisdiction. The senior most Civil Judge (Senior Division) allocates the cases. Moreover, this objection was never taken by the petitioner before the courts below. Furthermore, the petitioner has not shown any prejudice caused to him by the impugned order.

3.4 The last argument of the learned counsel representing the petitioner is with regard to the manner in which the title of the application has been typed. The petitioner may have highlighted the incorrect method of writing the title, however, the trial court's order cannot be set aside only based on a clerical mistake when in the application it is underscored that the petitioner is the respondent/plaintiff.

4. **DECISION**

- 4.1 Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.
- 4.2 Dismissed.
- 4.3 All the pending miscellaneous applications, if any, are also disposed of.

April 04, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO