

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

127

CR-7578-2017
Date of decision: 22.04.2024

BABU LAL AND ORS

..Petitioners

Versus

JHUTHAR SINGH (DECEASED) THROUGH LRS & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Akshay Jindal, Advocate
for the petitioner.

Mr. P.R. Yadav, Advocate
for respondent No.1.

Mr. A.K. Yadav, Advocate
for respondent No.2 to 7.

ANIL KSHETARPAL, J(Oral)

1. This revision petition has been filed to challenge the correctness of the First Appellate Court’s order permitting the respondents to contest the suit on merits while setting aside the ex parte decree. It has been found by the First Appellate Court that without the proper service of notice, the trial Court erred in proceeding ex parte against the respondents. The petitioners have not produced either the *munadi* summons nor the report on the *munadi*, i.e. the local proclamation. Moreover, the plaintiff has filed a suit for grant of decree of declaration that they have become owners of the property by virtue of Section 3 of the Punjab Occupancy Tenants vesting of Propriety Rights Act, 1953.

2. In order words, the respondents stand deprived of their ownership over the suit property. Thus, the substantive rights of the respondents are affected by the ex parte decree.

3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. The learned counsel representing the petitioners though made a sincere attempt, however, failed to draw the attention of the Court to any substantive error in the following finding arrived at by the First Appellate Court:-

“After perusal of all the exhibited documents, it acknowledged that neither munadi summons nor munadi report was exhibited, either by applicant (herein appellant) or respondent Babu Lal. As per report dated 03.11.2006 by Ahlmad to Civil Judge (Jr. Div), “munadi effected”, I am surprised to see on what basis Ahlmad has made this report because neither munadi summons were issued nor any report thereof on the case file. The AW1 deposed in his cross examination that on 01.06.2006 Rajesh, Process Server, did not come to the village for service of summons. RW1 deposed that the munadi fee were deposited in case titled as Babu Lal Vs Jhuthar and same was withdrew by Ram Chand, Process Server. The RW2 deposed that his father was Chowkidar of the village and he was died due to Dengue fever. He deposed that his father had received munadi fee from Process Server. But in his cross-examination he deposed that he cannot tell the name of Process Server. He further deposed in his cross-examination that he cannot tell date, month, year when munadi summons effected. He further deposed that munadi fee also not deposited in his presence. He further deposed that affidavit was prepared and attested by Advocate. The RW4 Ram Chander deposed in his cross examination that the watchman was old age. He again said he was 30-35-40 years old. He further deposed that he does not remember in which case he got effected munadi. He further deposed that he cannot tell date and month when he got effected munadi. The RW4 deposed in his cross-examination that he cannot tell the name of process-server who served dasti summons upon Jhuthar. The RW4 further deposed that at the time of munadi no munadi fee was paid to Chowkidar

by process-server. Voluntarily said he might be paid after munadi. There are material contradictions in the depositions of witnesses examined by respondent Babu Lal. It is matter of record that neither munadi summons nor munadi summons report is on the file. So how Addl Ahlmad noting down the “munadi effected”. So reliance cannot be placed on the report of Addl. Ahlmad. In view of the above discussion, the appeal in hand stands allowed.”

5. Hence, no ground to interfere is made out.
6. Dismissed accordingly.
7. All the pending miscellaneous applications, if any, are also disposed of.

April 22nd, 2024
Ay

(ANIL KSHETARPAL)
JUDGE

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