

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

130

2024:PHHC:026193

CR-7764-2014(O&M)
Date of decision: 26.02.2024

JAGIR SINGH

..Petitioner

Versus

CHARNO AND ANR

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ramesh Chand Sharma, Advocate
for the petitioner.

Mr. Amit Dhawan, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

1. In this revision petition, the plaintiff assails the correctness of the judgment passed by the First Appellate Court on 12.09.2014. It has been ordered by the First Appellate Court that the defendant No.2 was out of country, however, the Court has passed ex parte decree for specific performance of the agreement to sell by publishing notice in the local newspaper. The appeal has been allowed with the following observations:-

“17. In the present case summons were sent to the defendants for 20.01.2004 which received back with the report that defendants have gone abroad and thereafter, plaintiff was directed to file the correct address of defendants but no correct address has been filed by the plaintiffs in the present case and case was in a routine manner was fixed for the service through publication in the newspaper. There is no report on the summons that defendants are avoiding service. Genuine report is that defendants are living in abroad. Plaintiff has not made any effort to produce the correct address of the defendants before the court despite directions given by the court to the plaintiff to produce the correct address of defendants. So lying upon the case law cited above, it is clear that the defendant Charno has not been properly served and defendant has no knowledge about the pendency of the case before the court.

18. This court is of the considered view that no proper service of the defendants was effected. Trial court has

committed an error while deciding these issues and have not appreciated the zimini orders passed in original file. Correct address of the defendants has never been filed by the plaintiff and no notice has been sent to the defendant on correct address. Service by publication is not a good service as is also held by Hon'ble High Court. So, therefore, findings on issues no. 1,4 and 5 given by trial court are reversed and these issues are decided in favour of the appellants.”

2. The learned counsel representing the appellant does not dispute the correctness of the aforesaid finding, however, he submits that the defendant No.2 has not appeared in the Court in support of her assertions in the application.
3. On the other hand, the learned counsel representing the respondent (defendant No.2) submits that Smt. Charno (defendant No.2) is residing abroad and she filed the application through power of attorney, who has appeared in the evidence.
4. In this case, on 20.01.2004, the process server reported that the respondent is residing abroad, however, rather than insisting upon the plaintiffs to furnish correct address of the respondent, proceeded to serve the respondent through local newspaper.
5. There is no evidence to prove that the aforesaid newspaper has a circulation in United Kingdom.
6. Keeping in view the aforesaid facts, no ground to interfere is made out.
7. Dismissed accordingly.
8. All the pending miscellaneous applications, if any, are also disposed of.

February 26th, 2024

(ANIL KSHETARPAL)
JUDGE

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