

2024:PHHC:034474

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

126

CR-1488-2024 (O&M)

Date of Decision : 11.03.2024

SURINDER SINGH

.... Petitioner

VERSUS

M/S APEX HEALTH CARE SERVICES & ANR.

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sudhir Paruthi, Advocate for the petitioner.

ALKA SARIN, J. (ORAL)

1. Challenge in the present revision petition is to the order dated 16.12.2023 (Annexure P-2) passed by the learned Civil Judge (Senior Division), Jalandhar whereby the applications under Order 9 Rule 13 CPC read with Section 151 CPC filed by the respondents herein for setting aside the *ex parte* judgment and decree dated 17.08.2010, modified on 18.03.2014, was allowed.

2. Learned counsel for the petitioner would contend that the respondents were duly served and hence the application ought to have been dismissed.

3. Heard

4. In the present case the Trial Court has categorically held that from the report of the Process Server it was apparent that he had not followed the procedure as prescribed under Order 5 Rule 11 CPC as he did not make any report regarding affixation of the summons and also did not mention the name and the address of the person by whom the house was

identified and in whose presence the copy of the summons was affixed. Pertinently, even the Process Server was not examined by the petitioner herein for reasons best known to him. It was further held that mere non-examination of the concerned Process Server was sufficient to hold that no due service was effected upon the respondents in the said suit. Even in the review application the service effected upon the respondents therein was not proper as no name and address of the person by whom the house was identified and in whose presence the summons was affixed was mentioned and the defendants were proceeded against *ex parte* without substituted service through *munadi* or publication. Learned counsel for the petitioner has not been able to show as to how the procedure had been followed before the defendants were proceeded against *ex parte*.

5. In view thereof, I do not find any merit in the present petition and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

11.03.2024
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO