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

CR-243-2021 (O&M)

Date of Decision : 17.02.2025

Naushad

... Petitioner(s)

Versus

Islamudin (deceased) through LR's

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Akshay Jindal, Advocate with
Mr. Vrishank Suri, Advocate for the petitioner.

Mr. Nipun Vashist, Advocate for the respondent.

ALKA SARIN, J. (Oral)

1. The challenge in the present revision petition is to the order dated 01.11.2019 whereby the application filed by the petitioner under Order 9 Rule 13 of the Code of Civil Procedure, 1908 (CPC) has been dismissed.

2. Brief facts relevant to the present *lis* are that the respondent herein filed a petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973. In the said petition the petitioner herein failed to appear despite service and was accordingly proceeded against *ex parte* vide order 12.05.2017. An *ex parte* order of eviction was passed on 20.04.2018. On 11.03.2019 an application under Order 9 Rule 13 read with Section 151 CPC was filed for setting aside the *ex parte* order dated 12.05.2017 and the *ex parte* eviction order. Reply was filed to the said application. Vide the impugned order dated 01.11.2019 the application was dismissed. Aggrieved by the same an appeal was preferred which appeal was also dismissed vide order dated 13.01.2020. Hence the present revision petition.

3. Learned counsel for the petitioner would contend that though the signatures of the petitioner were alleged to have been appended on the summons, however, he was never served and did not put his signatures on the said summons. It is further the contention of the learned counsel that the petitioner always signs in English while the signatures on the summons were in Hindi and hence it cannot be said that the petitioner was served.

4. *Per contra* the learned counsel for the respondent would contend that in the present case no evidence was led by the petitioner to show that the signatures on the summons were not his. The learned counsel would further contend that no handwriting expert was examined nor was any other evidence led to show that the signatures were not his. The learned counsel for the respondent has further pointed out that there is not even a whisper in the affidavit filed in examination-in-chief regarding any of the arguments now being raised by the learned counsel for the petitioner. Infact, the evidence by way of affidavit only refers to a memorandum of understanding vide which the respondent is alleged to have agreed to sell his house and in lieu thereof had received an amount of ₹12,00,000/-.

5. I have heard the learned counsel for the parties.

6. In the present case the case set up by the petitioner herein was that he was never served and that on the summons the signatures which were in Hindi were not his. The petitioner herein did not adduce any evidence to even remotely suggest that the signatures were not his. No handwriting expert was examined by the petitioner to show that the disputed signatures on the summons were not his. Further, even the Process Server was not examined qua the service of summons. The oral evidence led by the

petitioner i.e. AW2 – Bismilla – and AW3 – Aaub Hussain –only touched upon the merits of the case and did not relate to the service of summons. Even before this Court the learned counsel for the petitioner has been unable to point out to any evidence to even remotely suggest that the signatures on the summons were not his and that he was not duly served.

7. In view of the above, I do not find any merit in the present case. The present revision petition being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

17.02.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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