



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

CR-3026-2025 (O&M)

Date of Decision : 06.08.2025

MANOJ KUMAR

.... Petitioner

VERSUS

OM PARKASH

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. R.S. Dhillon, Advocate for the petitioner.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed challenging the order dated 24.01.2025 passed by the Trial Court whereby the application under Order IX Rule 13 CPC filed by the defendant-respondent for setting aside the *ex parte* judgment and decree dated 06.12.2018 was allowed.

2. Brief facts relevant to the present *lis* are that the plaintiff-petitioner herein filed a suit for recovery of ₹5,23,205. The defendant-respondent was proceeded against *ex parte* vide order dated 09.08.2018 and it was noticed in the said order that despite service none had put in appearance on behalf of the defendant-respondent. Subsequently, *ex parte* judgment and decree dated 06.12.2018 came to be passed. An application was later on filed by the defendant-respondent under Order IX Rule 13 CPC for setting aside the *ex parte* judgment and decree dated 06.12.2018 wherein it was stated that though in the report, (which has been appended with the

present petition as Annexure P-3), it was stated that since the defendant-respondent refused to accept the summons, copy of the same was affixed on the house of the defendant-respondent, however the same did not mention the name of the village, the street or any other identification. It was further stated in the application that though the report was dated 08.06.2018 whereas the refusal date was mentioned as 11.06.2018. Reply was filed to the said application. Vide the impugned order the application was allowed. Hence, the present revision petition by the plaintiff-petitioner.

3. Learned counsel for the plaintiff-petitioner would contend that there are no house numbers in the village hence non-mentioning of the house number on the report would not be fatal. It is further the contention of the learned counsel that the defendant-respondent refused to accept the summons and therefore affixation was done which was duly witnessed.

4. Heard.

5. In the present case it was reported that the summons had been served however there appear to be two dates on the photocopy of the summons which has been appended with the petition as Annexure P-3 - one is 08.06.2018 and the other date is 11.06.2018. There is no explanation coming for the two said dates. The Process Server was also not examined in the present case. It has further been noticed by the Trial Court that though the affixation is stated to have been witnessed by someone, however, the name of the person is not clear and only thumb impression has been appended. Even the said witness was not summoned by the plaintiff-

petitioner herein. In the absence of due service of summons, no fault can be found with the impugned order passed by the Trial Court.

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

06.08.2025

Aman Jain

NOTE:

(ALKA SARIN)

JUDGE

Whether speaking/non-speaking: Speaking

Whether reportable: Yes/No