



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

120

CR-4386-2023 (O&M)
Date of decision: 11.02.2025

RAJ SINGH

..Petitioner

Versus

ATTAR SINGH AND ANR.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rahul Gautam, Advocate
Mr. Aman Gautam, Advocate
for the petitioner.

Mr. Abhinav Sood, Advocate
Mr. Vikram Singh, Advocate
Mr. Prashant Lather, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)**CM-2135-CII-2025**

1. In view of no objection by learned counsel for respondent, the application for bringing on record the legal representatives of deceased late Sh. Mahender Singh (respondent No.2), is allowed, subject to all the just exceptions.

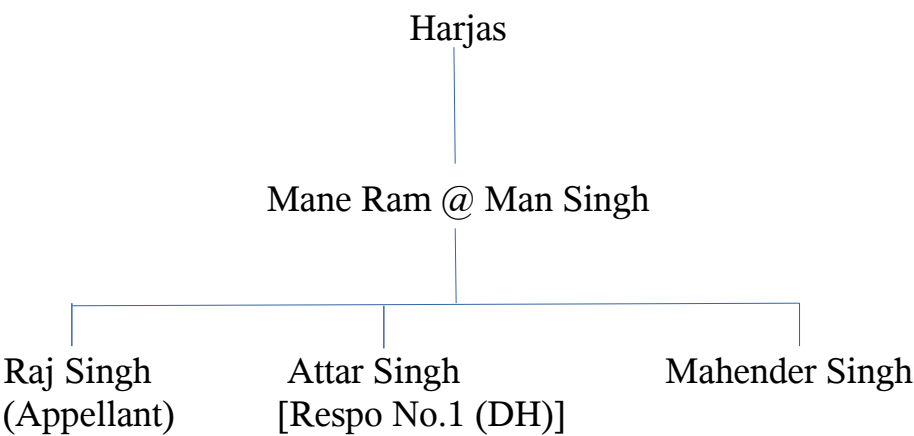
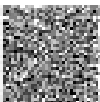
2. The amended memo of parties is taken on record.

3. CM stands disposed of.

Main case

4. Through this revision petition, the petitioner assails the correctness of concurrent orders passed by the Courts below while dismissing his application for setting aside ex parte decree passed by the competent Court of jurisdiction on 17.12.2010.

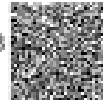
5. A small family tree is drawn to facilitate understanding of their *inter se* relationship:-



6. Sh. Mane Ram @ Man Singh was owner of the property. In a family settlement, he gave the property to Sh. Attar Singh, which was acknowledged in a Civil Court decree dated 25.03.2006. Subsequently, Sh. Mane Ram executed a registered Will in favour of his all three sons on 26.02.2007. Sh. Attar Singh filed Civil Suit No.784 of 2008, seeking declaration that he is owner in possession of the property. He impleaded Sh. Mahender Singh as well as Sh. Raj Singh as defendants. Sh. Raj Singh (petitioner) was proceeded against ex parte on 05.03.2008, whereas, the civil suit was decreed on 17.12.2010. The petitioner filed an application under Order IX Rule 13 of the Code of Civil Procedure, 1908, claiming that he was never served with the summons, hence, he was wrongly proceeded against ex parte. The application has been dismissed by both the Courts below. In order to prove proper service, the plaintiff/decreed holder examined the process server as well as *chowkidar*. The Court came to conclusion that the petitioner was served with the summons, however, he refused to receive the same. The Court also noticed that the petitioner was a police official.

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

8. Learned counsel for the petitioner draws the attention of the Court to the summons issued by the trial Court to the petitioner. He submits



that on 11.02.2008, the summons were served on him and on the same day, he was proceeded against ex parte. This Court has examined a photocopy of the summons. It is evident that the process server Sh. Arun Kumar on 10.02.2008 went to serve the summons upon the petitioner, however, he refused to receive the same. He was disclosed the name of the Court and the date of hearing. Thereafter, the petitioner did not permit the process server to paste the summons at the door of his house. The petitioner wrote on the summons with his own hand that he is bound by his duty and hence, he cannot appear in the Court. He signed while recording the refusal to receive the summons. Thus, it is evident that on 10.02.2008, he was tendered the summons from the Court, hence, there is no substance in the argument that the petitioner was not properly served. The petitioner has not produced any evidence to prove that the note of refusal has not been written by him.

9. Moreover, the judgment and decree was passed after a period of two years and ten months from the date when the summons were tendered to him but he refused to receive the same. After the decree was passed, he again waited for more than two years to file the application. The petitioner's brother has already contested the case.

10. Hence, no ground to interfere is made out.

11. Dismissed accordingly.

12. All the pending miscellaneous applications, if any, are also disposed of.

February 11th, 2025

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*