



CR No. 3634 of 2026 (O&M) -1-

122 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 3634 of 2026 (O&M)
DATE OF DECISION: 30.04.2026

AMAN KUMAR JAIN

.....PETITIONER

Vs.

PARVEEN KUMAR JAIN (SINCE DECEASED) THROUGH LRS
AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Piyush Setia, Advocate,
for the petitioner.

AMARINDER SINGH GREWAL, J.(ORAL)

1. Prayer in the present Civil Revision Petition filed under Article 227 of the Constitution of India is for setting aside the impugned order dated 10.03.2026 (Annexure P-7), passed by the learned Additional District & Sessions Judge, Fazilka, whereby the application filed by the petitioner under Order XLI Rule 19 read with Section 151 of the Code of Civil Procedure, 1908 (for short, 'the CPC') for recalling the order and restoration of the appeal *qua* respondent No. 3 has been dismissed, and also for setting aside the order dated 16.12.2025 (Annexure P-5), whereby the appeal *qua* respondent No. 3 was dismissed for non-compliance of the directions of the Court.

2. The brief facts of the case are that the petitioner-plaintiff had filed a suit for declaration regarding the suit property, as detailed in the plaint, against the respondents, namely, Parveen Kumar Jain and others.



Notice of the said suit was issued to the respondents, who appeared through counsel and filed their written statement. As many as four issues were framed by the learned trial Court. The parties led their respective evidence. Ultimately, the suit of the present petitioner was dismissed vide judgment and decree dated 05.09.2023 (Annexure P-1), passed by the learned Civil Judge (Junior Division-1), Abohar, District Fazilka.

2.1 Aggrieved against the said judgment and decree dated 05.09.2023, the petitioner preferred an appeal before the learned District Judge, Fazilka (Annexure P-2). Notice of the said appeal was issued to the respondents. As per interim order dated 19.03.2024 [part of Annexure P-3 (colly.)], respondents No. 2, 6 and 8 put in appearance, and thereafter, notices were again issued to the remaining respondents.

2.2 Further, the interim order dated 16.12.2025 (Annexure P-5) reveals that notice to respondent No. 4 was issued by way of registered cover (RC). The receipt of the RC was placed on record. The track report was also produced, which showed delivery to the husband of respondent No. 4. However, none appeared on behalf of respondent No. 4 and, as such, respondent No. 4 was proceeded against *ex parte*. It was further observed that RC for respondent No. 3 and '*dasti*' summons were not taken by the petitioner and no justification for failure to comply with the directions of the Court was forthcoming; accordingly, the civil appeal *qua* respondent No. 3 was dismissed.

2.3 Thereafter, the petitioner filed an application (Annexure P-6) for recalling of the aforesaid order dated 16.12.2025 (Annexure P-5). The learned Additional District & Sessions Judge, Fazilka, vide impugned order



dated 10.03.2026 (Annexure P-7), held that the civil appeal was filed in the year 2024 and, till date, the appellant had failed to comply with the orders of the Court regarding service of respondents, particularly respondent No. 3. It was further held that the mere averment that due to inadvertence, RC could not be filed, is not tenable, especially when RC had been filed for another respondent, i.e. respondent No. 4. Finding no reasonable ground in the application, the same was dismissed vide the impugned order dated 10.03.2026 (Annexure P-7).

3. Learned counsel for the petitioner has contended that due to one reason or another, the petitioner could not file the RC for respondent No. 3 and, therefore, the learned First Appellate Court ought to have recalled its order dated 16.12.2025 (Annexure P-5). It is further contended that the petitioner is now ready to comply with the directions regarding service upon respondent No. 3.

4. Since the prayer made by learned counsel for the petitioner is innocuous in nature, this Court is of the view that issuance of notice to the respondents would unnecessarily delay the proceedings of the present petition and, therefore, service of the respondents is dispensed with.

5. I have heard learned counsel for the petitioner and perused the paper-book.

6. Keeping in view the facts and circumstances of the present case, this Court is of the considered opinion that one more opportunity deserves to be granted to the petitioner.

7. Consequently, without making any comment on the merits of the case, the present petition is allowed. The orders dated 16.12.2025



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(Annexure P-5) and 10.03.2026 (Annexure P-7), passed by the learned Additional District & Sessions Judge, Fazilka, are hereby set aside. The petitioner is directed to appear before the learned First Appellate Court on the date already fixed and, thereafter, the learned First Appellate Court shall grant one effective opportunity to the petitioner to get service effected upon respondent No. 3, in accordance with law.

8. Pending miscellaneous application(s), if any, shall also stand disposed of.

APRIL 30, 2026	(AMARINDER SINGH GREWAL)
nitin	JUDGE
Whether Speaking	Yes
Whether Reportable	No