

(122) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4611-2026 (O&M)

Date of Decision: 29.05.2026

RAKESH KUMAR

...Petitioner

Vs.

SHRIKANT SHARMA (SINCE DECEASED) THROUGH LRS AND
ORS

...Respondents

CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Abishai Alfred George, Advocate
for the petitioner.

VIRINDER AGGARWAL, J. (Oral)

1. The present Civil Revision Petition under Article 227 of the Constitution of India has been filed seeking setting aside of the impugned orders dated 08.05.2026 (Annexure P-1) and 19.05.2026 (Annexure P-2), passed by the learned Civil Judge (Senior Division), Panchkula, whereby the application dated 18.04.2026 (Annexure P-4) filed by the petitioner/plaintiff under Sections 151, 152, and 153 of the Code of Civil Procedure for correction of the order dated 06.04.2026 (Annexure P-3) and for a direction to proceed ex parte against respondents No. 1(c), 1(d), 4, 5, and 6, has been dismissed.

2. Briefly stated, the petitioner has instituted a civil suit against the respondents, which was pending for service of summons. Since respondents No. 1(c), 1(d), 4, 5, and 6 could not be served in the ordinary manner, the petitioner moved an application seeking permission for substituted service by effecting service upon the counsel engaged by the said unserved respondents in another suit pending before the learned Civil Judge. The said application was allowed, and notices were directed to be served upon the respondents

through substituted service via their counsel in the other connected proceedings. Pursuant thereto, on 06.04.2026, the learned Civil Judge passed an order recording that the notices issued to the legal representatives of defendant No. 1, i.e., respondents No. 1(c), 1(d), 4, and 8, had been received back unserved, and accordingly, fresh notices were ordered to be issued for 08.05.2026. Thereafter, the petitioner moved an application for correction of the order dated 06.04.2026. The said application was partly allowed vide order dated 08.05.2026, whereby a clerical correction was carried out to the extent that the word “decree-holder” was substituted with “plaintiff” in relation to an inadvertent mention regarding filing of affidavit. However, the prayer of the petitioner seeking a direction to record that service upon respondents No. 1(c), 1(d), 4 to 6 stood completed and to proceed ex parte against them was declined. Subsequently, the petitioner filed another application under Section 151 of the Code of Civil Procedure seeking correction/modification of the order dated 06.04.2026. The said application was also dismissed vide order dated 19.05.2026. Being aggrieved by the aforesaid orders, the present Civil Revision Petition has been filed under Article 227 of the Constitution of India.

3. Learned counsel for the petitioner contended that the impugned order dated 08.05.2026 has been passed at the back of the petitioner’s counsel, as the counsel could not remain present before the Court on account of the strike called by the Bar Association. It is submitted that the application has been dismissed in a mechanical manner, without assigning any cogent reasons and without proper consideration of the contents and averments made therein. It is further contended that while disposing of the application dated 18.04.2026, the learned Trial Court failed to take into consideration the earlier

proceedings as well as the attending circumstances under which the application came to be filed. It is submitted that the application for substituted service was necessitated due to the non-availability of any other address of the unserved respondents/defendants, and accordingly, service was sought to be effected through their counsel appearing in Civil Suit No. 590 of 2026. It is further pointed out that the said mode of substituted service was duly permitted by the learned Trial Court vide order dated 12.02.2026, and once such permission had been granted, the subsequent refusal to recognize service effected in the said manner is wholly unjustified and contrary to the earlier order of the Court. It is thus contended that the impugned order dated 08.05.2026 is legally unsustainable, suffers from non-application of mind, and is liable to be set aside in the interest of justice.

4. It is further contended by learned counsel for the petitioner that the Hon'ble Apex Court in *East India Hotels Ltd. vs. Agra Development Authority*, 2001 (2) RCR (Civil) 607, has held that notice to counsel is deemed to be notice to the party concerned. However, in the present case, despite service having been effected upon the counsel appearing for the unserved defendants in another matter, the learned Trial Court has failed to treat the same as valid service upon the respondents.

5. For proper adjudication of the present revision petition, it is necessary to refer to the report of the process server as well as the endorsement made on the summons issued to the respondents/defendants. The record reflects that Ms. Aakanksha Kochar, Advocate, made the following endorsement on the summons: "It is humbly requested that we are not counsel for the concerned persons in this case and since it is a new case, the summons

may kindly be issued to the concerned party directly.” The process server, on his part, reported that the summons were duly tendered to Ms. Aakanksha Kochar, Advocate, who, after perusing the same, made handwritten remarks thereon and returned the summons with the aforesaid request. From the aforesaid report, it is evident that the counsel concerned did not accept service on behalf of the respondents in the present suit and specifically clarified that she was not engaged as counsel in the said matter, requesting that service be effected upon the parties directly. In such circumstances, mere engagement of the said counsel by the respondents in some other case cannot, by itself, be treated as valid service in the present proceedings. Since the counsel had not been engaged in the present suit, it cannot be presumed that she was under any obligation to accept notice on behalf of the respondents or to inform them about the pendency of the present proceedings. Consequently, knowledge of the proceedings cannot be imputed to the respondents on this basis alone.

6. The learned Trial Court has rightly declined the application. It is well settled that where the petitioner is unable to furnish the correct or current address of the unserved respondents/defendants, the appropriate course available in law is to resort to substituted service, including service by way of publication in a widely circulated newspaper, strictly in accordance with the provisions of the Code of Civil Procedure.

7. In the present case, the learned Trial Court has taken a plausible view based on the material available on record and the circumstances of the case. No illegality, perversity, or material irregularity can be said to have been committed in passing the impugned orders so as to warrant interference by this



Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India.

8. Accordingly, finding no merit in the present revision petition, the same is hereby dismissed. Pending application, if any, shall stand disposed of.

(VIRINDER AGGARWAL)
JUDGE

29.05.2026

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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>

