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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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Date of decision: 28.04.2026

Narinder Singh**...Petitioner(s)****Vs.****Sanjay Kumar****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. A.P. Kaushal, Advocate
for the petitioner.

Mr. M.S. Batth, Advocate
for the respondent.

NIDHI GUPTA, J.

Present Revision Petition has been filed by the defendant laying challenge to the order dated 06.09.2019 (Annexure P12) passed by the learned Civil Judge (Junior Division), Ludhiana whereby application filed by the petitioner under Section 5 of the Limitation Act; and for setting aside ex parte order dated 21.09.2015; and for setting aside ex parte judgment and decree dated 19.12.2016, has been dismissed.

2. It is inter alia submitted by learned counsel for the petitioner that the learned Civil Court was in error in dismissing the application of the petitioner as it failed to appreciate that the petitioner had not been served in

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accordance with law. It is submitted that the respondent/plaintiff had deliberately wrongly mentioned name of the petitioner as “N.S. Channi”; whereas name of the petitioner is “Narinder Singh”. It is submitted that a perusal of the Civil Suit (Annexure P4) filed by the respondent shows that name of the petitioner is deliberately wrongly mentioned as “N.S. Channi” and not as “Narinder Singh son of Mohan Singh”. Learned counsel submits that even address of the petitioner has been wrongly mentioned in the Civil Suit (Annexure P4); whereas the correct address of the petitioner is as mentioned in the Memo of Parties of the present Revision Petition. Ld. counsel contends that therefore, due to the wrong name and wrong & incomplete address of the petitioner given by the respondent, the petitioner was never served in the Civil Suit. It is submitted that this fact is obvious from the report of the Postman and report of the Process Server and copy of Publication (Annexure P5 to P7) respectively. It is contended that therefore, it was incumbent upon the learned Civil Court to allow the application filed by the petitioner.

3. It is further submitted that the petitioner came to know about the Civil Suit on 02.11.2017 when the respondent along with the bailiff/server came to the property of the wife of the petitioner to execute the Warrants of Attachment in Execution filed by the respondent against the petitioner and the petitioner was informed telephonically by the Bailiff that respondent has filed an Execution Petition against him and he has to appear in the Executing Court



on 06.11.2017. On 03.11.2017, the petitioner contacted his counsel at trial Court and appeared in the Court on 06.11.2017, and on the same day counsel for the petitioner had filed inspection of the file and after getting permission from the learned trial Court on 22.11.2017 counsel for the petitioner at trial Court inspected the file of Execution as the file reached in the Inspection Cell on 21.11.2017. From the judgment and decree dated 19.12.2016 filed in the Execution case, the petitioner came to know that petitioner was proceeded ex-parte on 21.09.2015 by the trial Court for non-appearance in the Court. After inspecting the file, petitioner without any further delay got the necessary papers and filed application under Order 9 Rule 13 of CPC for setting aside the ex parte judgment and decree along with application under Section 5 of the Limitation Act, for condonation delay, if any, in filling the application under Order 9 Rule 13 of CPC and application for staying the operation of the judgment and decree dated 19.12.2016 on 01.12.2017.

4. It is further submitted that from the above facts, it is clear that ex parte judgment and decree dated 19.12.2019 was obtained by the decree holder/respondent by concealing material facts and by misleading the Court by deliberately giving wrong name and wrong address of the petitioner. It is submitted that immediately upon getting knowledge of the said judgment and decree, the petitioner had moved the instant application under Order 9 Rule 13 CPC on 01.12.2017 itself along with application for condonation of delay.



Thus, the same were within limitation from the date of knowledge of the petitioner. It is accordingly prayed that the impugned order be set aside.

5. Per contra, learned counsel for the respondent/plaintiff/decreed holder vehemently opposes the submissions advanced on behalf of the petitioner and points out that in the Execution Petition (Annexure P10), the petitioner has been served on the same address as is mentioned in the Civil Suit (Annexure P4). It is submitted that therefore, there is no merit to the contentions raised by the petitioner. Rather, from the above facts it is clear that the petitioner was only evading service. Contentions of the petitioner that his name and address have been wrongly mentioned are borne out to be manifestly incorrect as the petitioner has not given any explanation as to how he came to be served in the Execution Petition at the same address and under the same name. Ld. counsel accordingly prays for dismissal of present petition.

6. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find merit in the submissions advanced on behalf of the respondent.

7. Brief facts of the case in chronological order are as follows:-

11.02.2014: The respondent/plaintiff had filed Civil Suit dated 11.02.2014 (Annexure P4) for recovery of Rs.2,13,901/- along with interest from the petitioner/defendant. Perusal of Civil Suit shows that in the Memo of Parties, name and address of the petitioner/defendant is mentioned as follows:-

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“N.S. Channi r/o Gali No.2, Kabir Nagar, P.O. Basti Jodhewal, Ludhiana.”

19.02.2015: On 19.02.2015, summons (Annexure P6) were issued to the petitioner to appear in person.

09.03.2015: Report dated 09.03.2015 (Annexure P6) of Process Service was received that:-

“For Service Of Summons of N.S Channi resident of Gali No.2, Kabir Nagar Basti Jodhewal Ludhiana inquiry was conducted, but due non mentioning of property number nothing comes out. So, it is requested that property number be mentioned and proper name of the property be given so, that summon be served. At the spot no one ready for the witness, report is presented.”

02.06.2015: Even a report dated 02.06.2015 (Annexure P5) was received from the Postman of insufficient address.

16.07.2015: Subsequently, service was sought to be affected upon the petitioner through Publication. Vide order dated 16.07.2015 (Annexure P7) as summons could not be served upon the petitioner through ordinary process, as per Order 5 Rule 20 CPC, Publication was issued against the petitioner for 18.08.2015.

21.09.2015: Vide order dated 21.09.2015 (Annexure P9 colly), the learned Civil Judge has duly recorded as follows:-

“Publication notice issued received back with the report of publication effected Period of 30 days has already been elapsed. None has appeared on behalf of defendants. As such defendants



are proceeded against exparte. Now the case is adjourned to 26.10.2015 for exparte evidence."

19.12.2016: Subsequently, Suit of the plaintiff came to be partly decreed ex parte vide judgment and decree dated 19.12.2016 (Annexure P8). Perusal of the judgment and decree dated 19.12.2016 shows that name and address of the petitioner therein is reflected as follows:-

"N.S. Channi r/o Gali No.2, Kabir Nagar, PO Basti Jodhewal, Ludhiana."

Vide the said judgment and decree, the plaintiff was held entitled to recover an amount of Rs.2,13,901/- from the petitioner along with interest @ 6%.

30.10.2017: In the meantime, on 30.10.2017, the respondent had filed Execution Petition bearing No.EXE-150-2017 (Annexure P10) seeking execution of the judgment and decree dated 19.12.2016. Perusal thereof shows that name and address of the petitioner is given as:-

"N.S. Channi, r/o Gali No.2, Kabir Nagar, PO. Basti Jodhewal, Ludhiana."

30.11.2017: On 30.11.2017, the petitioner moved the present applications (Annexure P11 colly) for: a) application dated 30.11.2017 for condonation of delay, if any; b) application dated 1.12.2017 for setting aside ex parte order dated 21.09.2015; and for setting aside ex parte judgment and decree dated 19.12.2016; c) application dated 30.11.2017 for stay of the impugned judgment and decree.



06.09.2019: Vide impugned order dated 06.09.2019 (Annexure P12),

applications of the petitioner have been dismissed for the following reasons:-

"5. Perusal of the copy of judgment dated 19.12.2016 from which the present execution has emanating contains para no.3 whereby it is mentioned that notice was served upon the defendant but defendant did not appear inspite of service of notice. Accordingly, defendant was proceeded exparte vide order dated 21.09.2015 and thereafter the suit of the respondent was decreed exparte vide judgment & decree dated 19.12.2016.

6. This Court is of the view that in the application for condonation of delay and in the main application for setting aside exparte proceedings material facts have been concealed by the applicant as he has mislead the Court by stating that he was never served in this case and came to know about the present judgment & decree only when he was served in the execution petition. This Court is of the view that the applicant has not come to the Court with clean hands and has concealed the material facts and it is settled law that a party who approached the Court with unclean hands is not entitled for any relief from the Court. As such, no ground is made out to condone the delay in filing the main petition. Since, the application for condonation of delay stands dismissed on the ground of concealment of the material facts by the applicant, as such, main petition cannot proceed further. Hence, application for condonation of delay is hereby dismissed as there is no sufficient ground for doing so. Consequently, main miscellaneous application has also become infructuous being meritless. File be consigned to record room, Ludhiana."



(Emphasis is mine)

8. I find no infirmity in the impugned order.
9. From the above documents i.e. Civil Suit (Annexure P4); judgment and decree dated 19.12.2016 (Annexure P8); and the Execution Petition (Annexure P10), it is clear that name and address of the petitioner in all the above-said three proceedings is shown as:-

“N.S. Channi, r/o Gali No.2, Kabir Nagar, P.O. Basti Jodhewal, Ludhiana.”

10. The contention of the petitioner that he was not served in the Civil Suit is borne out to be absolutely false and incorrect as admittedly the petitioner stands served in the Execution Petition (Annexure P10) at the very same address which is mentioned in the Civil Suit. The petitioner has been unable to explain as to how he came to be served in the Execution Petition at the same address with the same name “N.S. Channi” while he was not served in the Civil Suit at the same address and with the name “N.S. Channi”. It is clear that the Civil Suit (Annexure P4); judgment and decree (Annexure P8); and the Execution Petition (Annexure P10), all bear the same name of the petitioner as “N.S. Channi” and the same address. Therefore, the sole argument raised by the petitioner for setting aside of the impugned order, is found to be incorrect.



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11. Moreover, the petitioner has also not denied that notice was served upon him through Publication (Annexure P7); and it is only thereafter that the petitioner was proceeded against ex parte.
12. In view of the above, present Revision Petition stands **dismissed**.
13. Pending application(s) if any also stand(s) disposed of.

28.04.2026
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No