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

CR-4954-2025

Date of decision: 31.07.2025

**HARMINDER SINGH****..Petitioner****Versus****BHUPINDER SINGH AND OTHERS****..Respondents****CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Surjit Singh Swaich, Advocate  
for the petitioner.

**SUDEEPTI SHARMA, J. (Oral)**

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 08.01.2025 passed by the learned Additional Civil Judge (Senior Division), Fatehgarh Sahib, vide which application under Order IX Rule 5 read with Section 151 of the Code of Civil Procedure, 1908, filed by the petitioner/defendant No.1 for setting aside order dated 12.07.2022, passed by the learned Additional Civil Judge (Senior Division), Fatehgarh Sahib, regarding striking of defence of petitioner/defendant No.1 and order dated 21.12.2020, passed by the learned Additional Civil Judge (Senior Division), Fatehgarh Sahib, vide which the petitioner was wrongly and incorrectly shown to have appeared through Sh. Parvinder Singh, Advocate, has been dismissed.

2. Learned counsel for the petitioner contends that the suit for partition was filed by Bhupinder Singh and others and the petitioner was defendant No.1 in the same.



3. He further contends that the petitioner was never served through any mode of service and as per the process server report dated 22.09.2020, the petitioner was living abroad.

4. He further contends that the petitioner left India on 30.01.2020 for Italy and thereafter, he came back to India on 02.12.2020 and during the entire period, he was in Italy. Even in the zimni orders passed by learned Additional Civil Judge (Senior Division) Fatehgarh Sahib, there was no mention of the report of process server that the petitioner left India in the year 2020 and he was residing abroad.

5. He further submits that he was never served and he never gave any power of attorney to Sh. Parvinder Singh, Advocate, whose attendance has been marked on his behalf. He therefore prays that order dated 21.12.2020 is required to be modified to the extent of appearance of Sh. Parvinder Singh, Advocate, on behalf of the petitioner.

6. Since, the petitioner was never served and was not aware of the proceedings going on before learned Additional Civil Judge (Senior Division), Fatehgarh Sahib, therefore, order dated 12.07.2022 also deserved to be set aside to the extent of striking of defence of petitioner/defendant No.1.

7. Learned counsel for the petitioner further submits that the petitioner moved an application under Order IX Rule 7 read with Section 151 of the Code of Civil Procedure, 1908, for setting aside ex parte proceedings against the petitioner and for permitting him to file written statement and to contest the suit. The petitioner explained his genuine difficulty and has also explained the appearance of Sh. Parvinder Singh, Advocate, to whom he never authorized to appear.



8. Learned Additional Civil Judge (Senior Division), Fatehgarh Sahib without appreciating the facts mentioned in the application, dismissed the same only on the ground of delay.

9. Learned counsel for the petitioner further submits that delay was not intentional since the petitioner was never served and upon becoming aware of the orders, the petitioner immediately approached the Court and filed an application under Order IX Rule 7 of the Code of Civil Procedure, 1908. Therefore, he prays that present petition be allowed.

10. I have heard learned counsel for the petitioner and have gone through the file of this case with his able assistance.

11. Upon careful consideration of the record, this Court is of the opinion that the delay on the part of the petitioner in approaching the Court appears to be bona fide and sufficiently explained. The material on record, including the report of the process server, clearly indicates that the petitioner was not present in India at the relevant time. In fact, the report shows that the petitioner had left India in the year 2020 and was residing abroad. As such, there was no valid service effected upon the petitioner in accordance with law.

12. In view of the above, the order dated 21.12.2020 is modified to the extent that the presence of Sh. Parvinder Singh, Advocate, who is shown to have appeared on behalf of petitioner/defendant No.1, is ordered to be deleted from the record.

13. Further, the order dated 12.07.2022, whereby the defence of the petitioner/defendant No.1 was struck off, is hereby set aside, as the petitioner was never duly served and had no knowledge of the proceedings.



14. Learned counsel for the petitioner submits that the next date of hearing before learned Additional Civil Judge (Senior Division), Fatehgarh Sahib is 18.08.2025 and he is ready to file written statement on the next date of hearing.

15. In view of the same, the learned Additional Civil Judge (Senior Division), Fatehgarh Sahib is hereby directed to permit the petitioner to file his written statement on the next date of hearing. In the event that the hearing scheduled for 18.08.2025 does not take place for any reason and matter is adjourned, the petitioner shall be granted one effective opportunity to file his written statement on the next date of hearing, subject to payment of Rs.15,000/- as costs to be deposited by the petitioner with the Punjab and Haryana High Court Bar Association, which shall be utilized for construction/renovation of Women Bar Room, Punjab and Haryana High Court, Chandigarh.

**July 31<sup>st</sup>, 2025**

*Ayub*

**(SUDEEPTI SHARMA)  
JUDGE**

*Whether speaking/reasoned* : *Yes/No*

*Whether reportable* : *Yes/No*