

CR-5183-2023 (O&M)

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

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Date of Decision :27.03.2025

RAJ DARBAR ASSETS PRIVATE LIMITED

... Petitioner

Vs.

M/S OMSHANTI INFRASTRUCTURE PRIVATE LIMITED

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

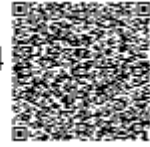
Present:- Mr. Chanchal K. Singla, Advocate with
Mr. Abhinav Kansal, Advocate and
Ms. Kavita Joshi, Advocate for the petitioner.

Mr. Brijesh Yadav, Advocate
Ms. Nikita Sangwan, Advocate
Mr. Baljeet Beniwal, Advocate for the respondent.

SUVIR SEHGAL J.

1. By way of instant revision petition, petitioner/defendant has assailed order dated 24.07.2023, Annexure P-1, passed by the learned Additional District Judge, whereby an application under Order 9 Rule 7 of CPC for setting aside order dated 22.08.2022, Annexure P-7, by which petitioner was proceeded against ex parte, has been dismissed.

2. Counsel for the petitioner submits that respondent/plaintiff filed a suit, Annexure P-4, for recovery of Rs.2,67,35,826.60 along with interest before the Commercial Court, Gurugram against M/s Natural Product Bio Tech Limited by mentioning its address as 303, 3rd Floor, Global Foyer, Golf Course Road, Sector 43, Gurugram. Counsel asserts



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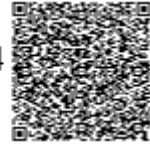
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that the name of the company was changed to M/s Raj Darbar Assets Limited on 19.09.2018 and it was further changed to M/s Raj Darbar Assets Private Limited on 24.06.2022. He has made a reference to the fresh certificates of incorporation, Annexure P-3, issued by the Ministry of Corporate Affairs, Government of India, which depicts the registered office of the company as 210-A, New Agra, Agra, Uttar Pradesh. It is his argument that respondent deliberately concealed the change and ex-parte proceedings initiated against the petitioner deserve to be set aside.

3. While referring to the impugned order, counsel for the respondent submits that summons were served upon the defendant in person and by post. Reference has also been made by him to the consignment report of speed post to fortify his submissions and to assert that the notices were received by an employee of the company. Counsel submits that the petition deserves to be dismissed as the petitioner deliberately did not appear before the court despite service.

4. I have heard counsel for the parties and considered their submission, besides examining the documents appended to the petition.

5. It is evident from the orders passed by the Commercial Court that a civil suit was instituted by the respondent/plaintiff against M/s Natural Product Bio Tech Limited on 31.05.2022 and as inadequate court fee was affixed, proceedings were deferred to enable the plaintiff to affix the requisite court fee, which was done on 13.07.2022. Notices were issued in the name of M/s Natural Product Bio Tech Limited and upon service, defendant was proceeded against ex parte on 22.08.2022, Annexure P-7. Application filed by the petitioner for setting aside of the



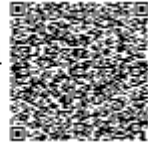
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ex parte proceedings has been rejected vide order impugned herein.

6. A perusal of Annexures P-2 and P-3 appended to the petition shows that the name of M/s Natural Product Bio Tech Limited was changed to M/s Raj Darbar Assets Limited on 19.09.2018 and it was further changed to M/s Raj Darbar Assets Private Limited on 24.06.2022. The change in the name of the defendant to M/s Raj Darbar Assets Limited was prior to institution of the suit and the second change in the nomenclature was after the institution of the suit. However, the summons were issued in the name of M/s Natural Product Bio Tech Limited at its Gurgaon address, however, this company was not in existence on the day the service is claimed to have been affected upon it. It cannot therefore, be said that the petitioner was served in accordance with law. Court summons have to be served on a limited company in its name at its registered office in accordance with Section 20 of the Companies Act, 2013. When that has not been followed, as is the position in this case, then it must be held that the summons of the suit on the defendant were not validly served upon it and the defendant has remained unserved.

7. It is the duty of the plaintiff to ensure that the defendant is impleaded in its proper name and its correct address is furnished to the Court for its due service. However, plaintiff failed to bring it to the notice of the Court that the name and address of the petitioner/defendant had changed. Once a company changes its name, its legal entity undergoes a change and the old name cannot be said to represent the new company. Service has to be effected upon the defendant at its current name and address. This Court is, therefore, of the view that the service upon the



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petitioner has not been effected and the Court has erred in initiating ex parte proceedings against it.

8. Accordingly, revision petition is allowed. Orders dated 22.08.2022 and 24.07.2023, Annexures P-7 and P-1, respectively, as well as ex parte proceeding initiated against the petitioner are set aside. Petitioner is permitted to join the proceedings as well as file its written statement before the Commercial Court.

9. Petition is allowed.

10. Parties are directed to appear before the Commercial Court, Gurugram on 16.04.2025 for further proceedings in accordance with law.

27.03.2025
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No