



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

**SAO-48-2024 (O&M)**

**Date of decision : 19.03.2025**

**Dharamveer**

**...Appellant**

**Vs.**

**Kashmir and another**

**...Respondents**

**CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Anil Kumar Sharma, Advocate  
for the appellant.

\*\*\*

**ANIL KSHETARPAL, J.** (Oral)

1. The plaintiff assails the correctness of the First appellate Court's order while reversing the order passed by the trial Court. The application filed by defendant No.1 under Order 9 Rule 13 of the Code of Civil Procedure, 1908 to set aside *ex parte* decree was dismissed by the trial Court, however, the same has been allowed by the First Appellate Court.

2. It has come on record that Kashmir (defendant No.1) was not residing in the village. Initially, the summons were sent to him through Court as well as through registered post. It was reported that he was not found residing at the given address. Subsequently, the Court ordered service through local proclamation i.e. *munadi* without verifying whether defendant No.1 is actually residing at the given address or not. On the basis of local proclamation, he was proceeded against *ex parte*, which resulted in *ex parte* decree. Thus, Court has found that defendant No.1 was never individually served. It has been found that the Court has not complied with the provisions of Order 5 Rule 20 of the Code of Civil Procedure, 1908 and has failed to record



its satisfaction before directing local proclamation.

3. Moreover, defendant No.1 has only been permitted to contest the case.

4. Keeping in view the aforesaid facts, no ground to interfere is made out.

5. Hence, the appeal is dismissed.

**(ANIL KSHETARPAL)**  
**JUDGE**

**19.03.2025**

neeraj

|                             |     |    |
|-----------------------------|-----|----|
| Whether speaking/reasoned : | Yes | No |
| Whether Reportable :        | Yes | No |