

2025:PHHC:029612



S. No.134

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

Civil Revision No.1320 of 2025

Date of Decision:03.03.2025

Promod Kumar

.....Petitioner

Vs.

Sarojni alias Saroj Bala and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Ashish Aggarwal, Senior Advocate with
Ms. Aashna Aggarwal, Advocate for the petitioner.

DEEPAK GUPTA, J. (Oral)

Plaintiff- Promod Kumar (petitioner herein) had filed a suit for declaration before the learned Additional Civil Judge (Senior Division), Ambala wayback in 2015 against as many as 29 defendants. Vide order dated 19.09.2024 (Annexure P.3), suit of the plaintiff was dismissed qua defendants No.13, 25 and 26 under Order 9 Rule 5 CPC for non-supplying the copies of the plaint. Vide another order dated 27.09.2024 (Annexure P.4), suit was dismissed qua defendants No.2, 10(a), 16(a), 14(a), 18 and 20 for the same reason. Plaintiff moved an application for setting aside both the afore-said orders dated 19.09.2024 and 27.09.2024 but the same was dismissed by way of the impugned order dated 18.11.2024 (Annexure P.7).

2. Learned Senior Counsel for the petitioner has drawn attention towards the fact that as far as defendants No.25 and 26 are concerned, they had already been proceeded ex parte on 06.02.2016 vide order Annexure P.8 and as such, the suit qua these defendants have been wrongly dismissed later on. It is pointed out that Shri Rajesh Gupta, Advocate was representing the defendant No.2 as is evident from order dated 06.04.2015 (Annexure P.9) and so the suit qua this defendant was wrongly dismissed. Learned counsel then drawn attention towards the fact that defendant No.12 – Bikram Singh is the same person who is the LR of defendant No.10 and also the LR of defendant No.14 and that defendant No.12 was already proceeded ex parte as is evident from the order dated 22.10.2018 and as such, suit qua defendant No.10(a) and



14(a) who is none else than defendant No.12, has also been wrongly dismissed. Qua defendants No.18 and 20, it is contended by learned Senior Counsel that both these defendants had expired and that defendant No.19 is their LR which fact was brought to the notice of the Court by moving application Annexure P.5 and that said defendant No.19 is represented through Mr. B.S. Garg, Advocate and as such order qua defendants No.18 and 20 was also liable to be set aside. As far as defendants No.16(a) and 13 are concerned, learned Senior Counsel concedes that there has been lapse on the part of the plaintiff in not depositing the process fee and copy of plaint etc., and prayed that only one opportunity be granted to do the needful so as to serve these defendants.

3. Without issuing any notice to the respondents, lest it may delay the proceedings, considering that suit is already more than 10 years old, the present petition is hereby allowed. The impugned orders passed by the trial Court qua defendants No.2, 10A, LRs of defendants No.14(a), 18, 20, 25 and 26 are hereby set aside. The trial Court is directed to provide one opportunity to the plaintiff- petitioner to do the needful so as to file necessary process fee, copy of plaint or making up any other deficiency for serving these defendants and then notice to them be issued.

4. Disposed of.

March 03, 2025
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No