

Kusum Thakur Vs. Surender Singh Kadian

Cr. Rev. (FC) No.60 of 2024

18.05.2026 *Present:* Mr. Amit Sharma, Advocate, for the petitioner.

Respondent proceeded against *ex parte* vide order dated 17.07.2025.

On 25.11.2022, Cr.MP No. 3586 of 2022 filed by the petitioner was allowed by directing the petitioner to take steps for service of the respondent by way of *dasti notice*.

In compliance with the aforesaid order, steps were taken by the petitioner and *dasti notice* was issued to the respondent for 26.12.2022. The said notice was served through the Senior Superintendent of Police (SSP), Gurdaspur, Punjab, who had assigned the same to the Deputy Superintendent of Police (DSP), City Gurdaspur, Punjab, for necessary action and compliance. Thereafter, the respondent was personally served on 15.12.2022 and subsequently, on 18.12.2022, Mr. Naveen Kumar Bhardwaj, Advocate, filed Power of Attorney on behalf of the respondent. Thereafter, the matter was listed before the learned Additional Registrar (Judicial) on 26.12.2022, observing that Mr. Naveen Kumar Bhardwaj, Advocate, had filed Power of Attorney on behalf of the respondent after his valid service. Accordingly, the matter was listed before the Court on 28.10.2022. The respondent was duly represented by Mr. Naveen Kumar Bhardwaj,

Advocate, who had been engaged by the respondent after service in December, 2022.

On 11.08.2023, the matter was referred to mediation with directions to the parties to appear before the learned Mediator, Mr. G.D. Verma, Senior Advocate, on 18.08.2023 at 01:00 PM in the Main Mediation Centre, H.P. High Court. However, on 09.10.2023, the report of the learned Mediator dated 06.10.2023 was taken on record, wherein it was stated that the mediation proceedings had failed and accordingly the matter was adjourned to 14.12.2023.

On 14.12.2023, the parties were directed to file affidavits in terms of the orders passed by the Hon'ble Supreme Court in *Rajnish v. Neha* and the matter was adjourned to 04.01.2024. Thereafter, the matter was again adjourned to 28.03.2024, 01.05.2024 and 31.07.2024. On 31.07.2024, four weeks' time was granted to do the needful in terms of the order dated 01.05.2024 and thereafter the matter was listed before the learned Additional Registrar (Judicial) for necessary compliance on 22.10.2024.

On 22.10.2024, filing of the requisite affidavits of income by both the parties was awaited despite opportunity granted *vide* order dated 10.09.2024 and thereafter the matter was listed before the Court on 18.11.2024. On 18.12.2024, again four weeks' time, as a last

opportunity, was granted to the parties to comply with the order passed by the Court and thereafter the matter was listed for 07.01.2025. On that day, the following order was passed:-

“ Despite repeated opportunities granted w.e.f. 14.12.2023, both the parties have not filed requisite affidavits.

Learned counsel for both the parties pray for and are granted six weeks’ time to file requisite affidavits, failing which contempt proceedings shall be initiated against the erring party.

List on 25.03.2025.”

Thereafter, when the matter was listed for 25.03.2025, the affidavit was not filed on behalf of the respondent and matter was adjourned for 01.04.2025. On 01.04.2025, following order was passed:-

“ It appears that the respondent is deliberately avoiding to file affidavit regarding maintenance as directed by this Court. Let such affidavit be filed on or before the next date of hearing, failing which this Court may be constrained to secure the presence of the respondent by resorting to coercive steps.

List on 22.04.2025.”

However, despite the aforesaid order, the respondent did not file the affidavit. Accordingly, on 22.04.2025, the Coordinate Division Bench of this Court ordered issuance of bailable warrants against him in the sum of Rs.50,000/- with one surety in the like amount for securing his presence on the next date of hearing, returnable for 27.05.2025. However, the bailable warrants issued against the respondent were received back unexecuted for want of

correct address. Since then, the matter has been pending for furnishing the correct address by the petitioner to ensure execution of the bailable warrants and has been listed for the said purpose since 15.07.2025.

Learned counsel for the petitioner submits that the respondent was served once and thereafter he did not turn up and his correct address is not known to the petitioner. He has further submitted that Execution Petition Registration No. 32 of 2019, is pending before the learned Judicial Magistrate First Class, Dharamshala but in the said petition the respondent has already been proceeded against *ex parte* and his counsel is also not appearing for want of instructions.

In the present matter also, when the respondent was not traceable and was not coming forward to impart instructions to his counsel, Mr. Naveen Kumar Bhardwaj, Advocate, filed an application, i.e. Cr.MP No. 3039 of 2025, seeking withdrawal of his Power of Attorney for want of instructions. The said application was allowed on 17.07.2025 and on the same day the respondent was proceeded against *ex parte*. However, since he had already been duly served, the bailable warrants continued to remain in force.

In the aforesaid circumstances, we are of the considered opinion that further proceedings in the present

matter can continue as the respondent, despite due service, has neither appeared to contest the matter nor is traceable despite issuance of bailable warrants. Therefore, there is no necessity to continue with the execution of the bailable warrants issued against him, which are not being executed for want of correct address and the same is not being available with the petitioner.

Accordingly, the order directing service through bailable warrants is recalled and the matter is directed to be listed for further proceedings on **02.07.2026**.

(Vivek Singh Thakur)
Judge

(Ranjan Sharma)
Judge

18th May, 2026
(Shamsh Tabrez)