

**CR-1518-2019 (O&M)**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CR-1518-2019 (O&M)****Date of decision : 13.05.2026**

Dr. Rajesh Chander & anr.

..... Petitioners

Versus

Gurdev Singh & anr.

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Mahir Sood, Advocate with
Mr. Arun William, Advocate
Mr. Harleen Singh, Advocate
Mr. Anirudh Bhaskar, Advocate
for the petitioners.

PANKAJ JAIN, J. (ORAL)

1 Present revision petition is directed against order dated 23.01.2019 (Annexure P-1) and that dated 05.04.2018 (Annexure P-2) passed by Additional Civil Judge, Senior Division, Phagwara (District Kapurthala) whereby the suit filed by the plaintiffs seeking decree of possession by way of specific performance stands dismissed *qua* defendant No.1 for having not supplied the correct address despite availing repeated opportunities.

2 For convenience, parties hereinafter are referred to by their original position in the suit, i.e. the petitioners as plaintiffs and the respondents as defendants.

3 Plaintiffs filed suit seeking decree of possession by way of specific performance of agreement to sell dated 03.09.2013 in respect of

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land measuring 2 kanal in form of residential plot as detailed out in the headnote of the plaint.

4 Plaintiffs propounded agreement to sell which as per them was executed in their favour by defendant No.2 acting as Special Power of Attorney holder of defendant No.1. Defendant No.2 was served and proceeded ex-parte. Defendant No.1 remained unserved. From the records, it is discernible that opportunities were granted to the plaintiffs to furnish correct address of defendant No.1. After they failed to furnish correct address, impugned order was passed dismissing the suit *qua* defendant No.1 under Order IX Rule 2 CPC.

5 Plaintiffs filed application under Order IX Rule 4 CPC seeking restoration of suit against defendant No.1. The same also stands dismissed vide impugned order dated 23.01.2019.

6 Counsel for the plaintiffs has assailed both the orders. He submits that defendant No.2, having executed the agreement to sell in favour of plaintiffs while acting as the Special Power of Attorney of defendant No.1, service upon defendant No.2 should have been deemed to be service upon defendant No. 1.

7 In the present revision petition defendant No.1, Gurdev Singh has been arraigned through defendant No.2, Pradeep Kumar. As per service report, respondents stand served. However, none has appeared.

8 Having heard counsel for the plaintiffs and after carefully perusing the records of the case, this Court finds that the plea raised by counsel for the plaintiffs with respect to service upon defendant No.2 being deemed service upon defendant No.1 in suit cannot be accepted for the

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reason defendant No.1 was not impleaded through defendant No.2. Having said that, the Trial Court ought not have dismissed the suit *qua* defendant No.1 and should have afforded an opportunity to the plaintiffs to seek service on defendant No. 1 through substituted mode.

9 In view of above, this Court finds that the impugned orders dismissing the suit filed by the plaintiffs *qua* defendant No.1 cannot be sustained. The same are hereby set aside. The Trial Court shall grant an opportunity to the plaintiffs to move an appropriate application seeking service upon defendant No.1 through substituted mode.

10 The suit is stated to be pending for 29.05.2026. On the said date, the plaintiffs shall produce copy of the instant order before the Trial Court who shall restore suit *qua* defendant No.1 and proceed in accordance with law.

11 Disposed off accordingly.

12 Pending miscellaneous application, if any, also stands disposed off.

13.05.2026
Pooja Sharma-I

(PANKAJ JAIN)
JUDGE

Whether speaking/record:
Whether reportable:

Yes/No
Yes/No