

SECTION IV B

Listed on 02.09.2013

Court No.R1

IN THE SUPREME COURT OF INDIA

Item No.46

CIVIL APPELLATE JURISDICTION

PETITION FOR SPECIAL LEAVE TO APPEAL(CIVIL)NO. 18508 OF 2012.

WITH PRAYER FOR INTERIM RELIEF

Mal Singh (D) Thr. Lrs. & Ors.Petitioner(s)

Versus

Gurdev Kaur & Ors.Respondent(s)

OFFICE REPORT

The matter above mentioned was listed before the Ld. Registrar's Court on 23.07.2013 with an office report dated 22.7.2013, when the following Order was passed:

"Counter affidavit on behalf of respondent No.1 has already come on record.

Three weeks' time is granted to respondent No.2 for filing counter affidavit on record.

Notice to respondent No.3 was issued through the Ld.Civil Judge (Junior Division), Jalandhar, who has reported that he has refused to accept the notice. The refusal on the part of the respondent amounts to legal and valid service.

Respondent No.4 is reported to be duly and properly served but no one has put appearance on his behalf.

Service report in respect of respondent Nos.5 to 7 is awaited.

The learned counsel for the petitioner has undertaken to rectify the defects/errors, pointed out in the application for substitution of the legal representatives of deceased respondent No.8 as well as in the application for substituted service on respondent No.9 by the next date.

List again on 2.9.2013."

It is submitted that there are total 9 respondents. Mr. Gagan Gupta, Advocate has filed Vakalatnama/Memo of Appearance and Counter Affidavit on behalf of respondent no. 1. Mr. Parmanand Gaur, Advocate

has filed Vakalatnama/Memo of Appearance on behalf of respondent no. 2 but no Counter Affidavit has been filed so far. As per service report of the Civil Judge (Junior Division), Jalandhar, respondent No. 3 has refused to accept notice and respondent no. 4 stands duly served but has not chosen to enter appearance so far. Neither A.D. Cards nor unserved covers containing notice have been received back from respondent nos. 5 to 7.

It is further submitted that application for substitution to bring on record the Lrs. of deceased respondent No. 9 i.e. Sarabjit Kaur filed by Mr. C.S. Ashri, Advocate on 05.03.2013 is still defective for the reasons that:

1. Copies have not been served on otherside.
2. Age of the Proposed Lrs. has not been given in application.
3. Neither Death Certificate of deceased nor any application for exemption from filing Death Certificate has been filed.
4. Delay period cannot be ascertained without date of Death/Death Certificate.
5. Notice of Motion in respect of proposed Lrs. have been taken out.

It is further submitted that Mr. C. S. Ashri, Advocate for the petitioner has on 29.08.2013 filed application for substitution to bring on record the Lrs. of deceased R. No. 8 i.e. Sham Kaur and application for condonation of delay in filing substitution application. These applications are also defective for the following reasons:

1. Copy has not been served on Mr. P. Gaur, Advocate
2. In the death certificate name of deceased respondent No. 8 does not tally with cause title.
3. No application for setting aside abatement has been filed.
4. Notice of Motion in respect of proposed Lrs. have been taken out.

The defects have been notified to the Counsel vide this Registry's letter dated 30.08.2013.

Service of show cause notice is incomplete on Lrs. of respondent

Nos. 5 to 9.

The matter is listed before the Ld. Registrar's Court with this office report.

Dated this the 31st day of August, 2013.

ASSISTANT REGISTRAR

Copy to:Mr. C.S. Ashri, Adv.

Mr. Gagan Gupta, Adv.

Mr Parmanand Gaur, Adv.

ASSISTANT REGISTRAR

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