

Vijay Bhardwaj Vs. Suresh Bhardwaj & others.

RSA No. 160 of 2022

13.9.2022

Present: Mr.Romesh Verma, Advocate, for the appellant.

Mr.Neeraj Gupta, Senior Advocate, along with Mr.Vedhant Ranta, Advocate, for respondents No. 1 (a) to 1(c).

None for respondent No. 2.

RSA No. 160 of 2022

Notice issued to respondent No. 2 has been received back with the report that the said respondent is not residing at the given address. Respondent No. 2 Reena was defendant No. 2 in the trial court and she did not contest the suit and was proceeded against ex parte. In appeal also respondent No. 2 Reena did not appear and was proceeded ex parte.

By way of an amendment applicable to Delhi, Himachal Pradesh, Punjab and Haryana High Courts, there is addition to sub rule (3) of Rule 14 of Order 41 Code of Civil Procedure (CPC), which reads as under:-

“Delhi, Himachal Pradesh and Punjab, Haryana and Chandigarh.—(i) Add the following as sub-rule (3):

“(3) it shall be in the discretion of the appellate court to make an order, at any stage of the appeal whether on the application of any party or on its own motion, dispensing with service of such notice on any respondent who did not appear, either at the hearing in the court whose decree is complained of, or at any proceedings subsequent to the decree of that court, or on the legal representatives of any such respondent: Provided that—

- (a) That court may require notice of the appeal to be published in any newspaper or in such other manner as it may direct:*
- (b) No such order shall preclude any such respondent or legal representative from appearing to contest the appeal.”*

In aforesaid facts and circumstance and provisions of law, appellant is dispensed with from serving respondent No.2 with right to her or her legal heirs to join the proceedings at any time, as permissible under law.

List on 18th October, 2022.

CMP No. 8664 of 2022

Reply stands filed. Rejoinder thereto, as prayed, be filed within three weeks.

List for consideration on **18th October, 2022.**

**(Vivek Singh Thakur),
Judge.**

13th September 2022
(Keshav)