

Present: Applicant Hem Lata through video conferencing.

Heard, through video conference on the application moved by applicant Hem Lata for rectification of the order dated 30.04.2021 and for grant of interim injunction in favour of plaintiff/applicant by preponing the aforesaid case. As per contention of the applicant the matter was pending for 19.04.2021 and the same was adjourned for 30.04.2021 for service of defendant/respondent No. 1 on filing of RC/AD within 7 days or through Whatsapp or e-mail ID and the plaintiff/applicant got the service of defendant/respondent No. 1 effected on 28.04.2021 through e-mail ID and Whatsapp and the relevant documents in this regard have already been placed on file by the applicant before 30.04.2021 but despite that the court had adjourned the case on 30.04.2021 to 30.07.2021 for service of defendant/respondent No. 1 although defendant/respondent No. 1 has been duly served with the summons but intentionally failed to appear before the court.

It is further submitted that the defendant/respondent is going to retire from service in July 2021 as per the knowledge of the plaintiff/applicant and further he may also procure VRS with the malafide intention to cause wrongful loss to the applicant and in case, the defendant/respondent succeeds in withdrawing the amount of retirement benefits, the very purpose of filing the present suit shall become infructuous and the applicant shall suffer irreparable loss as she will not be able to recover the outstanding dues of maintenance allowance from defendant No. 1.

It is submitted that it is desirable and in the interest of justice, the case file may be taken up by preponing the same and the order dated 30.04.2021 may be rectified by proceeding defendant/respondent No. 1 as exparte and the exparte interim injunction may be granted in favour of the plaintiff/applicant.

After hearing the contention of applicant and going through the case file, it is observed that above titled is the application under Order 33 Rule 1 read with Section 151 CPC

and respondent No. 1 was served through his personal e-mail-ID as well as through Whatsapp on 27.04.2021. However, defendant/respondent No. 1 failed to appear in the court either in person or through counsel on 30.04.2021 i.e. date already fixed. Therefore, vide order dated 30.04.2021, after going through the documents regarding service of the summons of defendant No. 1 through Email ID and Whatsapp, matter was adjourned to 30.07.2021 without proceeding defendant No. 1 exparte due to the present unavoidable situation because of wave of current pandemic, rather the matter was adjourned for 30.07.2021 as service of remaining defendants No. 2 to 5 was yet to be effected and the report of Collector was yet to be called.

Perusal of the file shows that infact applicant is seeking relief of permanent injunction against defendant No. 2 to 5 from releasing the service benefit/retirement benefits to defendant No. 1 but till date, plaintiff/applicant did not bother to get the service of summons effected upon defendant No. 2 to 5 against whom she is seeking the relief of permanent injunction. The contention of the applicant is that the order dated 30.04.2021 is rectified and respondent No. 1 be proceeded as exparte and the exparte interim injunction be granted in favour of the plaintiff. The contention of applicant is not acceptable as due to unavoidable circumstances due to pandemic, it is not justified to proceed exparte against defendant No. 1. However, in the interest of justice, the respondent No. 2 to 5 are restrained from releasing the service benefits/ retirement benefits to the defendant No. 1 till further orders as if defendant No. 2 to 5 are not restrained from doing so, the very purpose of filing the present application/suit will be frustrated. Therefore, keeping in view the facts and circumstances of the case, exparte injunction against defendant No. 2 to 5 is granted and defendants No. 2 to 5 are restrained from releasing the service benefits/retirement benefits to the defendant No. 1 till further orders. Compliance of order 39 Rule 3 CPC be made. The plaintiff is directed to get effected of defendants No. 2 to 5 through RC/AD on filing of process fee within a week. Plaintiff is also at liberty to get the service effected by taking dasti summons, or through personal

Email ID, or through Whatsapp, failing which the ad-interim injunction granted vide this order may automatically stand vacated. Case is adjourned to 30.07.2021 i.e. date already fixed with the direction to the plaintiff to intimate the court regarding the service of summons of defendants No. 2 to 5.

Date of order 05.05.2021
Sonia Rani

(Ravi Inder Kaur Sandhu)
Addl. Principal Judge,
Family Court, Bathinda
UID No. PB0186