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**COURT NOTICE  
(U/o 5 Rule 20 CPC)**

**IN THE COURT OF Dr. Ram Niwas Bharati  
District and Sessions Judge Sirsa**

**Next Date, Purpose of case, Orders and Judgments as well as other  
case information is available on <http://ecourts.gov.in>**

**SATISH KUMAR  
Vs.  
GENERAL PUBLIC**

**CNR No. HRSI01-007736-2018**

**Next Date:- 17-08-2019**

**PUBLICATION ISSUED TO:**

**GENERAL PUBLIC AND ETC.**

**:-**

**Sirsa.**

To,

The Manager  
Dainik Chetna News Paper  
Bhiwani.

Whereas it has been proved to the satisfaction of the Court that the defendant(s)/respondent(s) above named cannot be served in the ordinary way of service. Hence, this proclamation **under order 5 Rule 20** CPC is hereby issued against him/them and should appear personally or through their counsel on **17-08-2019 at 10:00 a.m.**

Take notice that, in default of his/their appearance on the day before mentioned, the above said case will be heard and determined in his/their absence according to law.

Given under my hand and the seal of the Court, this **06-07-2019**.



*C.P. J.*  
**District and Sessions Judge**  
D1 Sirsa

IN THE COURT OF DISTRICT JUDGE, SIRSA.

Civil Suit Date of Instt. Date of Dec. Date of appeal  
No.

401-C/2016 16-08-2016 25-10-2018 03-12-2018

Value of the suit Value of the appeal Amount of  
For court fee for court fee court fee paid

200/- 200/- 25/-

Satish Kumar aged about 41 years son of Shri Krishan  
Lal resident of H.No.35, Near Taneja Dairy, Gandhi  
Colony Rania Road, Sirsa, Tehsil and District Sirsa.

--Appellant/Plaintiff

VERSUS

1- General Public and others.

-Defendant-Respondent

2- Vishali wife of Shri Sanjiv Kumar R/o Police  
Chowki Wali Gali, Sanjiv Kiryana Store,  
Khairpur, Sirsa.

3- Usha @ Pooja wife of Shri Sunil Kumar @ Rinku  
son of Shri Inderpal resident of Rania  
District Sirsa.

--Proforma Respondents

Appeal against the judgment and decree  
passed by the court of Shri Abhishek  
Chaudhary Civil Judge (Junior  
Division), Sirsa on 25-10-2018 in the

579-CA  
5-12-18

case bearing Civil Suit No.401-C/2016 titled as "Satish Kumar Vs. General Public and others" vide which the court has dismissed the suit filed by the plaintiff/appellant.

**CLAIM IN APPEAL**

For setting aside the impugned judgment and decree dated 25-10-2018 passed by the court of Shri Abhishek Chaudhary Civil Judge, (Junior Division), Sirsa in the case bearing Civil Suit No.401-C/2016 titled as "Satish Kumar Vs. General Public and others" vide which the court has dismissed the suit filed by the plaintiff/appellant and for passing a decree in favour of the plaintiff-appellant as prayed for in the plaint with costs throughout.

Sir,

The appellant/plaintiff respectfully submits as under:-

- 1- That the appellant has filed a civil suit No.401-C of 2016 titled as "Satish Kumar Vs. General Public and others" seeking a relief of declaration to the effect that Shri Aman

Kumar Taneja son of Shri Krishan Lal Taneja resident of Gandhi Colony, Sirsa is presumed to be a dead person as the whereabouts of the said Aman Kumar Taneja son of Shri Krishan Lal Taneja is not known to anybody and he has not been found/searched out at any place and as he being not heard and traceable for the last more than 7 years i.e. since 2004 hence he be declared as dead person with the consequential relief that the plaintiff being the brother and Class II legal heir and the proforma defendants being the 1<sup>st</sup> class legal heir of the said deceased Aman Kumar Taneja and hence the plaintiff and proforma defendants are entitled to deal with the estates if any left by the deceased Aman Kumar.

- 2- That the judgment and decree dated 25-10-2018 passed by the court of Shri Abhishek Chaudhary Civil Judge, junior Division, Sirsa, whereby the Ld. Lower court had dismissed the suit of the plaintiff is quite wrong, erroneous, without application of judicious mind, out of pleadings, against the principles of natural justice and equity and

the same is liable to be reversed. Certified copy of the impugned judgment and decree is attached herewith for kind perusal of this Hon'ble court.

- 3- That the plaintiff and the said Aman Kumar Taneja were the real brothers. The father of the plaintiff is pre-deceased. Smt. Maya Devi was their mother and the presently impleaded proforma defendants are the real sisters of the plaintiff.
- 4- That initially at the time of institution of the suit, the mother of the plaintiff namely Smt. Maya Devi was alive and thus she was impleaded as proforma defendant in the suit but during the pendency of the suit she had expired and thus the plaint was amended with the permission of the court impleading the present proforma defendants i.e. sisters of the plaintiffs.
- 5- That after the filing of the suit, the defendant General Public was proceeded against exparte in this case and the proforma defendants appeared through their counsel in the court. They filed written reply in the shape of admission written statement.

- 6- That on the basis of the pleadings of the parties, two issues were framed. The issue no.1 was to be proved by the plaintiff and the issue no.2 was the issue of relief.
- 7- That in order to prove the issue no.1 the plaintiff examined two witnesses. He himself appeared as PW1 and examined Shri Rakesh Kumar as PW2. He also had tendered documents Ex.P1 to Ex.P6.
- 8- That the plaintiff in this manner by leading cogent and convincing evidence on the file has proved that his brother Aman Kumar has not been heard for the last more than 7 years and his whereabouts have not been known to anybody for the said period. But the learned lower court dismissed the suit filed by the plaintiff merely on the ground of non examination of any witness with regard to the registration of the Rapat Ex.P1. In order to prove the case of the plaintiff, the evidence and examination of the plaintiff and the PW2 as well as the exhibition of the documents placed on file was sufficient but the learned lower court did not consider the same and dismissed the suit of the plaintiff.

9- That the plaintiff in his evidence proved his case by placing on record the required documents to prove his version. Whereas the defendants in their evidence have failed to prove their defence.

10- That the Ld. Lower court has failed to understand the real matter in controversy between the parties and thus could not properly appreciate the evidence brought by the plaintiff/appellant before the court. Without going into the circumstantial evidence, facts of the case and legal position, the Ld. Lower court dismissed the suit of the plaintiff as a whole.

11- That the lower court has also not gone through the evidence produced by the plaintiff to prove his case and has not appreciated the documentary evidence produced by him in support of his version. Rather excessive reliance is placed upon the oral evidence produced by the defendants. The case law authorities cited by the counsel for the plaintiff were not relied upon by the court whereas these were totally fit to the facts and circumstances of the present case.

12- That the Ld. Civil court committed great legal error in passing the impugned judgment and decree and did not apply its judicious mind on the subject matter, rather acted in an extremely haste and casual manner. Without going through the real controversy in the subject matter, the lower court had simply on the basis of surmises and conjectures dismissed the suit of the plaintiff, hence the order is against the principles of natural justice and liable to be reversed.

13- That the facts narrated above and the grounds of appeal clearly show that the impugned judgment and decree dated 25-10-2018 is totally against facts and circumstances and is unlawful, without any justification and thus the same is liable to be set aside. The case of the plaintiff/appellant was very strong and must be decreed in all its probabilities. It is crystal clear that the impugned judgment and decree of the Ld. Lower court is without application of judicious mind and thus liable to be reversed.

14- That the impugned judgment and decree is dated 25-10-2018 and the appellant was out of



station because of some medical emergency relating to his family member and thus the appellant could not contact his counsel in time and did not come to know about the decision of the case. A separate application seeking condonation of delay is being filed herewith. There is a good case in favour of the appellant and the appellant should not be made to suffer on mere technicalities. The delay in filing the appeal may kindly be condoned.

15- That requisite court fee stamps are hereby affixed with the appeal as per the valuation of the suit.

16- That the impugned judgment and decree dated 25-10-2018 was passed by the court of Shri Abhishek Chaudhary Civil Judge, Junior Division Sirsa, this Hon'ble court being appellate authority has got jurisdiction to try, entertain and to decide the present appeal.

Hence, prayed that the impugned judgment and decree dated 25-10-2018 passed by the court of Shri Abhishek Chaudhary Additional Civil Judge, (Junior Division), Sirsa in the titled as "Satish Kumar Vs. General Public and others" vide which the court has dismissed the suit filed by the plaintiff/appellant may kindly be set aside and a decree may kindly be passed in favour of the plaintiff/appellant as prayed for in the plaint, in the interest of justice.

Sirsa/Dt. 5/11/18

Submitted by

Satish Kumar son of Shri  
Krishan Lal resident of  
H.No.35, Near Taneja Dairy,  
Gandhi Colony Rania Road,  
Sirsa, Tehsil and District  
Sirsa

--Appellant

*Satish Kumar*

*Sir -  
The Court for is correct  
and appeal is time barred.*

*R.K. Arora*

*R.K. Arora*

THROUGH R.K. ARORA ADVOCATE, SIRSA.

*Note: Adhara Cpd.  
sent to court for  
to R.K. Arora  
Advocate*

Presented by Sh. R.K. Arora, Adv.  
Put up in Plethi on... today  
Dated... 5-11-18

*R.K. Arora*  
Superintendent  
Griff (Jud.)