Amar Nath Gupta
v.
Sub-Divisional Officer (Civil), Faridkot

Pandit, J.

the provisions set out in the various rules was fatal and that in such cases the nomination paper must be rejected. While accepting the appeal against this decision, their Lordships of the Supreme Court held thus—

> "Tendency of the Courts towards technicality is to be deprecated; it is the substance that counts and must take precedence over mere form. Some rules are vital and go to the root of the matter; they cannot be broken; others are only directory and a breach of them can be overlooked provided there is substantial compliance with the rules read as a whole and provided no prejudice ensues; and when the legislature does not itself state which is which, judges must determine the matter and, exercising a nice discrimination, sort out one class from the other along broad-based, commonsense lines.
>
> * * * * * * *
> * * * * * * *
>
> "Reading Rule 9(1) (iii) (c) in the light of section 23, an omission to set out a candidate's occupation cannot be said to affect "the merits of the case." This part of the form to be filled in by the candidate is only directory and is part of the description of the candidate; it does not go to the root of the matter so long as there is enough material in the paper to enable him to be identified' beyond doubt."

In view of what I have said above, this petition succeeds and the impugned order is quashed. There will, however, be no order as to costs.

B.R.T.

REVISIONAL CIVIL

Before Inder Dev Dua, J.

ARJAN SINGH AND OTHERS,—*Petitioners.*

versus

HAZARA SINGH AND OTHERS,—*Respondents.*

Civil Revision No. 479 of 1963

1965

April, 5th.

Code of Civil Procedure (Act V of 1908)—Order 5 rules 12 to 20—High Court Rules and Orders, Volume IV, Chapter 7-B—Manner of service of summons to be followed stressed—Judicial institutions established to administer justice—How to act.

Held, that under Order 5 rule 12 of the Code of Civil Procedure, wherever it is practicable, service must be made on the defendant in person unless he has an agent empowered to accept service; and according to rule 1(i) Chapter 7-B part (a), High Court Rules and Orders, Volume IV, every attempt should be made to effect personal service in the first instance and the process-server should go again and again for this purpose, because service in any of the ways enumerated in Order 5, rules 12 to 16 of the Code has to be insisted upon and service by affixation under rule 17 should not be allowed till after the day fixed for scrutiny. Rule 2 of part (b) of this Chapter provides that between the date of issue of process and the date of hearing Presiding Officers of Courts must personally satisfy themselves that service is being effectually carried out and not content themselves with looking into the matter only on the date of hearing. To achieve this object for which this salutary direction has been issued it is provided in the following rule No. 3 that ordinarily a very near date shall be fixed for payment of process-fee and for giving adequate details of the persons to be served, on which date the Judge shall satisfy himself, *inter alia*, that the fees, diet money etc., had been paid. If these conditions have been satisfied process shall then issue and two dates shall be fixed, the first for the return of the process with a report of the process-serving agency, and the other for the hearing of the case. The interval between the dates of issue and return on the one hand and between the return and hearing on the other shall in each case leave adequate time for the service of the process and it shall not be left to the discretion of the process-server to decide whether he should effect personal or substituted service. This rule also contemplates recording by the Court Readers a note about service, and a foot-note specifically says that if interval between dates of return and hearing is sufficient, a second date for return may be fixed. On the date fixed for return the Presiding Officers should scrutinise the record and pass suitable orders. Rule 1 of part (c) of this Chapter points out that no Court can rightly proceed to hear a suit *ex parte* until it is proved to the satisfaction of the Court that summons has been duly served strictly in the manner provided. Rule 3(v) of this part, after laying down the nature of proof of service under Order 5 rule 17 of the Code, expressly points out that it is the duty of the Court to satisfy itself *inter alia* that reasonable efforts were made without success to serve the defendant personally and then declare whether the summons was "duly served"; sub-rule (vi) makes provision regarding service by affixation etc., under Order 5 rule 20. Rule 4 of the aforesaid part of Chapter 7-B imposes a duty on the Court, in all cases, to obtain requisite proof, as laid down in the directions, by verified statements recorded in writing, of the person by whom the service was effected, or, if deemed necessary, by the examination in Court as witnesses of such persons as the Court may think fit to examine. These provisions more than amply demonstrate the supreme importance our law attaches to personal, service of summonses in suits. Our law of pro-

cedure, it must always be kept in view by our Courts, is designed to facilitate justice and further its ends. The requirement of personal service has indeed its roots in the fundamental rule of natural justice of almost universal validity which demands that proceedings affecting men's rights should not continue in their absence without reasonably prior notice to them to represent their case. Those whose interests may be directly affected by an order are entitled under the law to adequate opportunity to be heard. Wherever, therefore, it is reasonably possible, the provisions of the Code deserve to be construed in the light of this principle.

Held, that the judicial institutions do not by themselves suffice to produce justice. What is called administration of justice in this Republic requires not merely establishment of organs of justice, such as Courts of law, but also—and this appears to be perhaps more important—that the matters to be adjudicated upon should be decided by what is known as the judicial process, which postulates application of judicial mind with a conscientious sense of responsibility, adequate vigilance and alertness, preserving a judicial temper and possessed of genuine and keen desire of impartially holding the scales of justice even; another thing to remember in this connection is that, according to our jurisprudence, justice must not only be done but it must also indubitably be seen to be done.

Petition under section 115, *of the Code of Civil Procedure, Act V of* 1908, *for revision of the order of Shri Gurnam Singh, Additional District Judge, Gurdaspur dated* 31*st July*, 1963, *affirming that of Shri Balwant Singh Teji, Sub-Judge,* 1*st Class,Batala, dated* 27*th February*, 1963, *dismissing the application and leaving the parties to bear their own costs.*

H. L. Sarin, Senior Advocate assisted by Miss Asha Kohli, Advocate, for the Petitioner.

S. S. Dewan, Advocate, for the Respondents.

JUDGMENT

Dua, J.

Dua, J.—This revision is directed against the order of the learned Additional District Judge, Gurdaspur, dismissing the defendants-applicants' appeal from the order of Shri Balwant Singh Teji, Subordinate Judge Ist Class, Batala, dismissing the defendants' application under Order 9 rule 13, Civil Procedure Code, for setting aside the *ex-parte* decree passed against them on 30th of November, 1961.

In order to understand and appreciate the point in controversy raised in this Court, it may be stated that one Hakam Singh had a son, Dipa. Hakam Singh's wife is Smt. Lachhmi and Dipa's wife is Smt. Taro. The present petitioners in this Court are stated to be collaterals of Hakam Singh in fourth degree. Hakam Singh owned about 314 *kanals* and 8 *marlas* of land. On his death one-half of this land was mutated in favour of his widow, Smt. Lachhmi, and the other half in favour of his daughter-in-law, Smt. Taro, widow of Dipa, apparently Dipa had died earlier and indeed it is not disputed before me. On 16th of December, 1957 Smt. Taro sold her half share of land to the present petitioners. On 22nd of November, 1958 Smt. Lachhmi executed a will in favour of the petitioners. On Smt. Lachhmi's death a dispute arose in regard to her inheritance. It is also stated on behalf of the petitioners before me, and not controverted by the respondents, that Smt. Bachni, respondent No. 11 in this Court, is a grant-daughter of Smt. Lachhmi. On 22nd of October, 1959 Smt. Lachhmi's land was mutated in favour of Smt. Bachni. On 18th of March, 1961 the petitioners instituted a suit challenging this mutation. On 29th of March, 1961 this suit was dismissed and an appeal was preferred by the petitioner on 10th of June, 1961. On 12th of August, 1961 there was a compromise between the parties and the petitioners are stated to have paid to Smt. Bachni a sum of Rs. 11,000.

It appears that three or four days earlier, on 8th of August 1961, respondents Nos. 1 to 10 in this Court had instituted a suit for possession of about 88 *kanals* of land pleading an agreement with Smt. Bachni, dated 4th of April, 1959. This land is said to be a part of 314 *kanals* and 8 *marlas* of land, the mutation regarding which had been attested in favour of Smt, Bachni as an heir of Smt. Lachhmi. This suit was decreed *ex parte* on 30th of November, 1961 and these are the proceedings for setting aside this *ex parte* decree which have given rise to the present revision petition.

It has been asserted on behalf of the petitioners, and not controverted on behalf of the respondents, that on 8th of August, 1961 Shri Karam Chand, Advocate, counsel for the plaintiffs, appeared and the suit was registered in the

Arjan Singh and others
v.
Hazara Singh and others

Dua, J.

Court of Shri Harjit Lal Randev, Subordinate Judge Ist Class, Batala. Indeed a certified copy of the Subordinate Judge's order to this effect has been produced before me by Shri Sarin. Summonses were ordered to be issued for settlement of issues in the case on payment of process-fee and envelopes for registration. The next date fixed was 6th of October, 1961. It is noteworthy that no intermediate date was fixed by the learned Subordinate Judge as suggested in rule 3, Chapter 7-B(b), High Court Rules and Orders, Volume IV. On 6th of October, 1961, after noting the presence of plaintiff No. 1 and counsel for the plaintiffs, the learned Subordinate Judge proceeded to observe that there was a report of refusal to accept service by the defendants. The court, however, directed fresh summonses to go for 13th of November, 1961 and it was noted that if the defendants were not served personally, then they should be served by affixation and proclamation. It is again noteworthy that the Court did not care to fix any intermediate date as suggested in the rule noticed earlier. On 13th of November, 1961 the learned Subordinate Judge observed in his order that defendants Nos. 2 to 6 were absent in spite of service by affixation and proclamation and defendant No. 1 was absent in spite of service by proclamation and that proceedings should be held *ex parte* against them. For *ex parte* proof the next date fixed was 29th of November, 1961. It was in these circumstances that the *ex parte* decree was passed in favour of the plaintiffs.

The petitioners' learned counsel has very strongly urged that the process-server appears to have made a false report on 8th of August, 1961 about the refusal of defendants Nos. 1 to 6 to accept service. According to the counsel, this indecent haste, which is most uncommon, clearly suggests the anxiety of the plaintiffs to have a report of refusal on the very first day when the suit was registered. It has also been pointed out that in spite of the order of the learned Subordinate Judge, no summonses were sent by registered post and on 6th of October, 1961, curously enough, the Court also did not care to enquire as to why the summonses had not been sent through registered post as earlier ordered. It is emphasised that the Court was apparently not satisfied with the report of refusal, dated 8th of August, 1961, and that, if this was so, the Court should have taken care to have the summonses

sent by means of registered post on the second occasion. The order suggesting that in case personal service was not effected, service by affixation should be resorted to, has also been criticised by the learned counsel as inappropriate and contrary to rules. Proclamation is said to have been held on 13th of November, 1961 and it is very strongly asserted that there is nothing on the record to establish the proclamation in accordance with the rules. The material in regard to the affixation also, according to the learned counsel, is not forthcoming on the record and there is nothing to show that it was done in accordance with the rules.

Another aspect to which the learned counsel for the petitioners has pointedly drawn my attention is that on 8th of December, 1961 the petitioners had applied for setting aside the *ex parte* decree, alleging that they had not been served in the suit and they never knew anything about this litigation. The original reports of the process-servers were destroyed, as noticed by the learned District Judge. This, according to the learned counsel, raised great suspicion about the regularity and indeed also the *bona fides* of the process-servers' conduct, particularly when it is kept in mind that on 8th of August, 1961 the process-server made a report of refusal to accept service by the defendants. The argument indeed goes to the length of submitting that the office of the Subordinate Judge also did not care to forward the summonses by means of registered post, which is suggestive of collusion with the process-server and the plaintiffs.

Dealing with the order of the learned Subordinate Judge, the respondents' learned counsel has submitted that it was for the applicants to prove that no service had been effected on them and if no process-server had gone to the village and affixed the summonses on the residential houses of the applicants and made no proclamation, then the attesting witnesses of the reports were the proper persons to depose about them. These persons having not been examined by the applicants, the evidence of the process-servers must be accepted. The learned Subordinate Judge has also observed that the applicants were unable to tell the Court as to why the process-servers had reported against them. According to the learned counsel for the petitioners, this order is tainted with a material

Arjan Singh and others
v.
Hazara Singh and others

Dua, J.

irregularity inasmuch as the Court has not cared to notice that the applicants could not prove the negative, and then the Court has also completely ignored the fact that the plaintiffs had themselves summoned Gharibu, Chowkidar and Hazara Singh Lambardar and had at the eleventh hour declined to produce them. Since these witnesses were being summoned by the plaintiffs-decree-holders, there was no point in the petitioners summoning them, for the entire material could have been placed before the Court by these witnesses, who could have been cross-examined by the petitioners. The testimony of the process-servers is inconclusive in view of their conduct.

In so far as the order of the learned Additional Distri Judge is concerned, it has been emphasised that he has merely referred to the reports of Diwan Chand process-server, Exhibit R. 1, dated 8th of August 1961, and Exhibit R. 2, dated 21st of September, 1961, reporting refusal to accept summonses by the defendants, with the observation, without scrutinising and pursuing the matter further, that his statement did not show that he had intentionally made false reports. He has also referred to the report, Exhibit R. 4, of Partap Singh process-server, who is said to have made a proclamation on 13th of November, 1961 in the village. It is interesting to note that 13th of November, 1961 was the date fixed in the Court, when an order for *ex parte* evidence was passed. The learned District Judge has also taken the view that the attesting witnesses on their parts, namely Gharibu, Chowkidar and Hazara Singh, Lambardar, should have been produced by the petitioners, again without noticing that these two witnesses had actually been included in the list of witnesses by the decree-holders and dropped at the eleventh hour. As a matter of fact the learned Additional District Judge's order is a mere repetition of what the learned Subordinate Judge had observed, without properly scrutinising the matter independently, as was expected of an appellate Court.

In the record as forwarded to this Court, I have not been able to find Exhibit R. 4, the report of Partap Singh process-server (R.W. 2), who is stated to have gone for service through proclamation in the village and to have done so on 13th of November, 1961. This report has been relied upon by both the Courts below as a report in regard to proclamation.

On behalf of the respondents the only argument on the basis of which the impugned orders have been sought to be supported, is that the two Courts below have come to the conclusion that the petitioners have not been able to show that no due service was effected on them and that this Court on revision cannot interfere with those orders. Indeed, he has not been able to take the matter further.

I have gone through the whole record and given my most anxious thought to the arguments addressed at the bar. In my opinion, the impugned order of the learned Additional District Judge as also that of the learned Subordinate Judge are tainted with illegality and material irregularity and deserve, in the interest of justice, to be set aside and reversed. Dealing first with the law on the subject of service of summons, it may be pointed out that under Order 5 rule 12 of the Code of Civil Procedure, wherever it is practicable, service must be made on the defendant in person unless he has an agent empowered to accept service; and according to rule 1(i) Chapter 7-B part (a), High Court Rules and Orders, Volume IV, every attempt should be made to effect personal service in the first instance and the process-server should go again and again for this purpose, because service in any of the ways enumerated in Order 5, rules 12 to 16 of the Code has to be insisted upon and service by affixation under rule 17 should not be allowed till after the day fixed for scrutiny. Rule 2 of part (b) of this Chapter provides that between the date of issue of process and the date of hearing Presiding Officers of Courts must personally satisfy themselves that service is being effectually carried out and not content themselves with looking into the matter only on the date of hearing. To achieve this object for which this salutary direction has been issued it is provided in the following rule No. 3 that ordinarily a very near date shall be fixed for payment of process-fee and for giving adequate details of the persons to be served, on which date the Judge shall satisfy himself, *inter alia,* that the fees, diet money etc. had been paid. If these conditions have been satisfied process shall then issue and two dates shall be fixed, the first for the return of the process with a report of the process-serving agency, and the other for the hearing of the case. The interval between the dates of issue and return on the one hand and between the return and hearing on the other shall in each case leave adequate

Arjan Singh and others
v.
Hazara Singh and others

Dua, J.

time for the service of the process and it shall not be left to the discretion of the process-server to decide whether he should effect personal or substituted service. This rule also contemplates recording by the Court Readers a note about service, and a foot-note specifically says that if interval between dates of return and hearing is sufficient, a second date for return may be fixed. On the date fixed for return the Presiding Officers should scrutinise the record and pass suitable orders. Rule 1 of part (c) of this Chapter points out that no Court can rightly proceed to hear a suit *ex parte* until it is proved to the satisfaction of the Court that summons has been duly served strictly in the manner provided. Rule 3(v) of this part, after laying down the nature of proof of service under Order 5 rule 17 of the Code, expressly points out that it is the duty of the Court to satisfy itself, *inter alia*, that reasonable efforts were made without success to serve the defendant personally and then declare whether the summons was "duly served"; sub-rule (vi) makes provision regarding service by affixation etc., under Order 5 rule 20. Rule 4 of the aforesaid part of Chapter 7-B, imposes a duty on the Court, in all cases, to obtain requisite proof, as laid down in the directions, by verified statements recorded in writing, of the person by whom the service was effected, or, if deemed necessary, by the examination in Court as witnesses of such persons as the Court may think fit to examine. These provisions more than amply demonstrate the supreme importance our law attaches to personal service of summonses in suits. Our law of procedure, it must always be kept in view by our Courts, is designed to facilitate justice and further its ends. The requirement of personal service has indeed its roots in the fundamental rule of natural justice of almost universal validity which demands that proceedings affecting men's rights should not continue in their absence without reasonably prior notice to them to represent their case. Those whose interests may be directly affected by an order are entitled under the law to adequate opportunity to be heard. Wherever, therefore, it is reasonably possible, the provisions of the Code deserve to be construed in the light of this principle.

Coming to the facts of the case before me, it is noteworthy that the learned Subordinate Judge on 8th August,

1961 did not fix any near date for process-fee etc. and further did not care to fix any date for the return of the process. Had he fixed these dates, he would have considered the question as to why envelopes for serving summons by registered post had not been furnished by the plaintiff as ordered, and also if the report of refusal dated 8th August, 1961 appeared to be suspicious and unimpressive, then fresh suitable orders would have been passed. This omission on the part of the learned Subordinate Judge is not easy to appreciate and indeed is a strong contributory factor in causing failure of justice in this case. Again on 6th October, 1961 when fresh summonses were ordered to issue, the learned Subordinate Judge did not care to advert to the question as to why the summons had not been sent by registered post as well, and indeed he chose for reasons not disclosed not to direct service by registered post but instead permitted service by affixation and proclamation, in case personal service was not effected. Seeing the most extraordinary and indecent haste disclosed on the record in the matter of process-server's report of refusal on 8th August, 1961—the very date of the order registering the plaint—one would have expected the learned Subordinate Judge to note this abnormal feature and to take keener interest in the proceedings. But not only did he again ignore the salutary provisions relating to service of summons noticed by me earlier, but he also omitted the additional mode of service by registered post and further gave an almost free hand to the process-server, virtually in his discretion, to effect service by affixation and proclamation. This, however, is not all. From the orders of both the Courts below, it quite clearly appears that the proclamation was made on 13th November, 1961, which was in fact the date of hearing fixed in the case and on which date the learned Subordinate Judge actually took *ex parte* proceedings, and also directed *ex parte* evidence to be produced by the plaintiff on the next date of hearing. This order seems to me to betray a somewhat perfunctory and, if I may say so, highly superficial approach to the case suggestive of casual attitude, on the part of the trial Court; at least it does not reflect proper judicial application of mind to all the relevant facts and circumstances of the case—the true characteristic of a judicial officer anxious to mete out justice.

Coming now to the proceedings for setting aside the *ex parte* decree which began with the application dated

Arjan Singh and others
v.
Hazara Singh and others

Dua, J.

8th December, 1961, it would have been obvious to the most casual eye interested in doing justice that proceedings for effecting substituted service would constitute the most important material for satisfactorily adjudicating on the controversy. But from the order of Shri Gurnam Singh, the learned Additional District Judge, it appears that this part of the record has been destroyed, presumably in accordance with the instructions which require their preservation only for a period of one year. The result, therefore, is that not only has this Court not the advantage of checking up how substituted service was effected but even the learned Additional District Judge could not have that advantage, when adjudicating on the appeal. There is nothing on the record to show as to when and in what circumstances that part of the record was destroyed; whether the trial Court in which proceedings questioning the legality and propriety of substituted service were pending had been asked about their destruction or they were destroyed without that Court's permission is, in my opinion, a matter of some importance, but is not discernible from the record. It is not even clear if the trial Court had scrutinised those proceedings. It is somewhat unfortunate that even the learned Additional District Judge should not have realised the serious implications of the destruction of this part of the record during the pendency of the judicial enquiry into the propriety of substituted service.

There is still another unfortunate circumstance which remains to be noticed. Exhibit R. 4 to which the Courts below have made a reference is not traceable in this Court. Neither the counsel at the bar nor the Court Reader has been able to find it out. Whether this document has been misplaced or is missing as a result of some innocent or innocuous reason, or it has been designedly removed at the instance and in the interest of one party or the other, is not easy to determine. It undoubtedly adds to the other unhappy and distressing features in this case, which are far from complimentary to the Courts below and to the Process-serving Agency.

But be that as it may, I am constrained to hold that in this case there was no due service of the defendants in the suit and the *ex parte* decree should in fairness and in the interest of justice have been set aside. In so far as the respondents' plea, that no ground for interference on revision is made

out, is concerned, it is sufficient to point out that the Courts below have acted illegally and with material irregularity in dismissing the petitioners' application, on the ground that they have not produced the attesting witnesses, Gharibu, Chowkidar and Hazara Singh, Lambardar, and have not discharged the burden of establishing want of due service, without adverting to the obvious non-observance of the provisions of the Code and of the rules by the trial Court in effecting substituted service. The above two witnesses, it may be pointed out, had admittedly been included by the decree-holders in their list of witnesses and also summoned by them, but in the end were given up. In these circumstances, it was both wrong and unjust for the Court to blame the petitioners for their non-production; it is also not understood why the Court did not itself examine them as Court witnesses. It was eminently a fit case for so examining them as also for examining Shangara Singh, Sarpanch in order to promote the cause of justice. A Court is not a mere automation or an indifferent observer, particularly in cases of the present type. It is the Court's legal duty and sacred responsibility, as indeed it is its privilege to see that justice is administered strictly in accordance with law, with due regard to the interests of all concerned, and assure that judicial process is not abused or misused so as to perpetrate injustice. When the petitioners questioned the legality and propriety of the substituted service, and *prima facie* those proceedings seemed irregular and unsatisfactory, suggesting the process-server's abnormal interest in the plaintiffs by reporting the defendant's refusal to accept service on 8th of August, 1961, it was incumbent on the Court with judicial alertness to thoroughly investigate into all of its factual and legal aspects. This also necessitated requisite precaution that judicial inquiry was not throttled or rendered unfruitful by avoidable official or non-official act, designed or inadvertent, which included non-preservation of the record relating to substituted service. Omission to take suitable steps to this end, being suggestive of absence of full realisation of sense of responsibility, is regrettable. The Courts below also appear to have lost sight of the rules framed by this Court under the Destruction of Records Act, 1917, particularly rules 14 and 15 contained in Chapter 16-F of Volume IV, High Court Rules and Orders.

The petitioners admittedly have their well, a couple of miles away from the village, where they work. They have

Arjan Singh and others
v.
Hazara Singh and others

Dua, J.

of course said that they also live on the well, but even if this part of their statement is not believed, it is common ground they do work on the well. If that be so, then it is difficult to understand—and nothing cogent has been shown—why no efforts were made to serve them personally on the well in pursuance of the order, dated 8th of August, 1961, or of the order, dated 6th of October, 1961. And then to insist that the petitioners should prove the negative, namely absence of due service, except by showing serious infirmities in effecting substituted service, seems also to be materially defective.

Here it may appropriately be observed that judicial institutions do not by themselves suffice to produce justice. What is called administration of justice in this Republic requires not merely establishment of organs of justice, such as Courts of law, but also—and this appears to be perhaps more important—that the matters to be adjudicated upon should be decided by what is known as the judicial process, which postulates application of judicial mind with a conscientious sense of responsibility, adequate vigilance and alertness, preserving a judicial temper and possessed of genuine and keen desire of impartially holding the scales of justice even; another thing to remember in this connection is that, according to our jurisprudence, justice must not only be done but it must also indubitably be seen to be done. To preserve and sustain order in democratic set-up of welfare pattern like ours, our judicial process must inspire citizens' faith and confidence in its impartial effectiveness, and this largely—indeed principally—depends on those who man our judicial institutions. It is accordingly necessary that the texture of their moral fabric and efficiency, which includes honesty, industry, vigilance and adequate knowledge of law, is of the requisite quality, for, any lowering of the standard of our judicial process is bound to recoil on the orderly structure of the civilised society as a whole. This Court hopes and trusts, that love for democratic liberty, loyalty to the Constitution, and sense of duty on the part of all concerned would contribute to the sustenance of the required standard of our judicial process. I have felt it necessary to make these observations, because this Court has lately come across cases of injudicious indifference on the part of some judicial officers and of officers in charge of judicial records, and found that *inter alia* due attention has not been paid to the questic

of proper preservation of judicial records. The importance of preservation and protection of judicial records cannot be over-emphasised and it is the bounden duty of those who are in control of such records to strictly observe the rules on the subject in letter and in spirit.

As a result of the foregoing discussion, I allow this revision and reversing the impugned orders allow the petitioners' application for setting aside the *ex parte* decree on payment of Rs. 50 as costs by the petitioners to the respondents within ten days.

B.R.T.

4957 HC—1,002—6-8-65—C., P. & S., Pb., Chandigarh