

**ORDER SHEET**  
**IN THE LAHORE HIGH COURT,**  
**MULTAN BENCH MULTAN**  
**JUDICIAL DEPARTMENT**

**WP No. 8241 of 2018**

Ghulam Mustafa  
**vs**  
ADJ etc

S.No. of Order/ Proceeding	Date of order/ proceeding	Order with signature of Judge and that of parties or counsel where necessary
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14.10.2019. Ch. Khawar Siddique Sahi, Advocate for petitioner.  
Mr. Yaqoob Ali Chaudhry, Advocate for respondent  
Nos.3 and 4.

Through this constitutional petition, the petitioner has called in question judgment and decree dated 01.07.2017 passed by learned appellate court, whereby appeal filed by respondent Nos. 3 and 4 was accepted as a consequence of proceedings against the petitioner initiated after the petitioner is stated to have been served only through mode of publication in the newspaper vide order dated 14.06.2017.

2. The previous order dated 02.06.2017 passed by appellate court shows that while admitting case, notices were issued to the petitioner through ordinary mode, registered envelope A.D. and publication in daily “*Insaf*” for 14.06.2017. The report shows that notices had remained unserved and were affixed at the spot and the petitioner had been served through publication in daily “*Insaf*”. However, it does not appear that any effort was made by the court to serve the petitioner through ordinary mode, therefore, I am not inclined to agree that proper service of notices had taken place and consequently also

do not agree with the impugned judgment for the reason that neither the petitioner was shown to be served and proceeded against ex-parte nor the impugned judgment & decree dated 01.07.2017 appears to be an ex-parte judgment.

3. Although the learned counsel for respondent Nos. 3 and 4 has defended the impugned judgment and decree, however, I am not inclined to agree with his arguments as from the record it appears that service of the petitioner was not properly effected before passing the impugned judgment.

4. In view of the above, without commenting upon the merits of the case, the impugned judgment and decree dated 01.07.2017 is *set-aside* and the matter is *remanded* to the appellate court where the appeal filed by respondent Nos. 3 and 4 shall be deemed to be pending with a direction to decide the same afresh preferably within three months after providing opportunity of hearing to both the parties. Both the parties shall appear before the District and Sessions Judge, Sahiwal on 28.10.2019 who shall assign the matter to the court of competent jurisdiction for its decision afresh.

5. In the foregoing terms, instant petition is *allowed*.

**(MUZAMIL AKHTAR SHABIR)**  
**JUDGE**

Naveed \*