

(2025) 12 P&H CK 0015

Punjab And Haryana HC

Case No: Civil Revision No. 7021 Of 2025 (O&M)

Sultan Singh

APPELLANT

Vs

Darshan Singh And Others

RESPONDENT

Date of Decision: Dec. 16, 2025

Acts Referred:

- Constitution Of India, 1950-Article 227
- Code Of Civil Procedure, 1908-Section 104, 151, Order 1 Rule 10, Order 9 Rule 13, Order 43 Rule 1(d)

Hon'ble Judges: Virinder Aggarwal, J

Bench: Single Bench

Advocate: S.K. Liberhan, Sourabh Bajaj

Final Decision: Dismissed

Judgement

Virinder Aggarwal, J

1. The petitioner has instituted the present Civil Revision Petition under Article 227 of the Constitution of India, seeking the issuance of an appropriate writ, particularly in the nature of certiorari, to quash and set aside the impugned ex-parte interim order dated 29.07.2016 passed by the learned Trial Court, Shahabad, Kurukshetra, along with the impugned judgment and decree dated 25.09.2017 (Ex. A5 and Ex. A6) rendered by the same Court.

1.1. The petitioner further impugns the order dated 08.08.2025 passed by the learned Additional Civil Judge (Senior Division), Shahabad, Kurukshetra, whereby the application under Order IX Rule 13 read with Section 151 CPC was dismissed, as well as the order dated 17.09.2025 passed by the learned Additional District Judge, Kurukshetra. It is contended that both Courts failed to appreciate the irregularities and apparent improprieties surrounding service of summons specifically, the first notice dated 12.07.2016, reported on 20.07.2016 (Ex. R1), and the second notice dated 21.07.2016, reported on 29.07.2016 (Ex. R2), thereby vitiating the proceedings.

2. The essential facts giving rise to the present proceedings are that the plaintiff instituted the present suit for specific performance of the agreement to sell dated 25.11.2014, along with possession and permanent injunction. As pleaded, under the said agreement, defendant No. 1 agreed to sell 8 kanals, constituting a 160/298 share of the total 14 kanals 18 marlas, forming part of Khewat No. 65 min, Khatoni No. 69 min, Rect. No. 22, Khasra Nos. 10 (8-16), 13/1/2 (0-2), 18/2/1 (2-14), and 18/1/1 (3-6), the last figure having been erroneously recorded as 3-16 due to a typographical mistake. The land stands reflected in the Jamabandi for 200809 and is situated in village Bapda, Tehsil Thanesar, District Kurukshetra (the suit property). This agreement was duly attested by Shri I.C. Saini, Notary Public, Kurukshetra, and entered at Serial No. 8131 dated 25.11.2014.

2.1. The agreed sale consideration was ₹17,50,000 per acre, against which the plaintiff paid ₹ 6,65,000 in earnest ₹5,44,000 on 25.11.2014, ₹66,500 on 26.12.2014 under the first Majeed Byana, and ₹55,500 on 23.10.2015 under the second Majeed Byana. The original date fixed for execution and registration of the sale deed was 27.10.2015. At defendant No. 1's request and due to his financial exigencies and personal circumstances, the timeline was extended to 22.01.2016.

2.2. On 22.01.2016, the plaintiff duly appeared before the Sub-Registrar, Ladwa, from 9:00 a.m. to 5:00 p.m., equipped with the balance sale consideration and requisite expenses, but defendant No. 1 failed to attend. The plaintiff marked his presence by affidavit and avers that he has consistently been ready and willing to perform his contractual obligations, whereas defendant No. 1 has unjustifiably evaded execution of the sale deed.

2.3. It is further alleged that, acting mala-fide and in breach of the subsisting agreement, defendant No. 1 executed Sale Deed No. 1947/1 dated 20.11.2015 in favour of defendants No. 2 and 3 in respect of 8 kanals 16 marlas comprised in Khasra No. 22//10 (8-16). This khasra forms part of the suit property agreed to be sold to the plaintiff, and defendant No. 1 thus lacked any authority to convey it. The said sale deed, executed with full knowledge on the part of defendants No. 2 and 3, is asserted to be illegal and non-binding on the plaintiffs' rights. Despite the plaintiffs' legal notices dated 30/31.05.2016, the defendants failed to comply, prompting the institution of the present suit seeking decree in terms of the reliefs claimed.

3. Upon issuance of summons, the defendants failed to enter appearance and were consequently proceeded against ex parte vide order dated 29.07.2016. Thereafter, upon affording the plaintiff an opportunity to adduce evidence and after hearing final arguments, the suit came to be decreed by way of judgment and decree dated 25.09.2017.

3.1. Aggrieved by the said ex parte judgment and decree, the petitioners moved an application under Order IX Rule 13 of the Code of Civil Procedure, 1908, on

01.07.2019, seeking setting aside of the ex parte proceedings as well as the resultant judgment and decree. The principal ground urged in the application was that the petitioners had never been duly served with summons of the suit, nor had they ever refused to accept service thereof. It was further alleged that the ex parte order dated 29.07.2016 was procured through a calculated design involving fraud, forgery, and deception, allegedly perpetrated in collusion with the serving officials, thereby vitiating the entire proceedings culminating in the impugned judgment and decree.

4. Notice of the said application was duly served upon the respondents/plaintiff, who contested the same by filing a detailed written reply. In opposition, the respondents specifically pleaded that the petitioner had been duly and validly served with summons through his wife, thereby negating the plea of non-service. It was further averred that an independent suit for specific performance of an agreement to sell dated 17.07.2015, pertaining to a part of the suit property, had been instituted by one Gaurav Kumar against the petitioner.

4.1. The respondents/plaintiff further asserted that, in the said suit, they had moved an application under Order I Rule 10 of the Code of Civil Procedure, 1908, wherein all material facts, including the judgment and decree dated 25.09.2017 passed in the present matter, were specifically disclosed and annexed. It was, therefore, categorically denied that the petitioner/defendant had acquired knowledge of the ex parte decree only through bank officials, as alleged.

4.2. Upon completion of pleadings, the learned trial court framed the requisite issues and afforded adequate opportunities to both parties to lead their respective evidence. After appreciating the material on record and hearing the parties, the learned Civil Judge, vide order dated 08.08.2025, dismissed the application filed by the petitioner under Order IX Rule 13 CPC, along with the accompanying application seeking condonation of delay.

5. Aggrieved by the aforesaid orders, the petitioner preferred an appeal under Order XLIII Rule 1(d) read with Section 104 of the Code of Civil Procedure, 1908. The said appeal came to be dismissed by the learned Additional District Judge, Kurukshetra, vide the impugned order dated 17.09.2025.

5.1. Still dissatisfied, and calling into question the legality, propriety, and correctness of the order dated 08.08.2025 passed by the learned Civil Judge (Senior Division), Kurukshetra, as well as the appellate order dated 17.09.2025 rendered by the learned Additional District Judge, the petitioner has invoked the revisional jurisdiction of this Court by way of the present revision petition. Upon issuance of notice, the respondents have entered appearance through their learned counsel.

6. This Court has heard learned counsel appearing for the respective parties at length and has meticulously perused and examined the entire paper-book, including the pleadings, evidence, and material placed on record.

7. Learned counsel for the petitioner has assailed the impugned orders by contending that both the learned Additional District Judge as well as the learned Civil Judge (Senior Division) failed to adjudicate the application for setting aside the ex-parte judgment and decree in accordance with law, as they did not properly appreciate or evaluate the pleadings and evidence available on record. It has been vehemently argued that the material on record conclusively establishes that the petitioner was never duly served with summons in the original civil suit and that the learned Civil Judge erroneously proceeded against the petitioner ex parte, culminating in the passing of an ex parte judgment and decree.

7.1. It is further submitted that the application seeking setting aside of the ex parte judgment and decree was filed well within the prescribed period of limitation, reckoned from the date on which the petitioner first acquired knowledge of the said decree. On these premises, learned counsel prays that the impugned orders be set aside and the present revision petition be allowed.

8. Per contra, learned counsel appearing on behalf of the respondent has stoutly opposed the revision petition and has submitted that the findings recorded by the learned Civil Judge as well as by the learned Additional District Judge are legal, well-reasoned, and founded upon a correct appreciation of the pleadings and evidence on record. It is contended that no perversity, illegality, or material irregularity can be attributed to the impugned orders, and that both the courts below have exercised their jurisdiction judiciously and in consonance with the settled principles governing adjudication of applications under Order IX Rule 13 of the Code of Civil Procedure.

8.1. Learned counsel further argues that the concurrent findings do not warrant interference in the exercise of revisional jurisdiction, particularly in the absence of any jurisdictional error or miscarriage of justice, and therefore prays for dismissal of the revision petition.

9. The learned Civil Judge has held that the application seeking setting aside of the ex-parte judgment and decree was not instituted within the prescribed period of limitation and was, therefore, barred by time. A categorical finding has been recorded to the effect that the petitioner had, at the very least, acquired knowledge of the ex parte judgment and decree on 16.04.2018. Inasmuch as the limitation for filing an application under Order IX Rule 13 of the Code of Civil Procedure is thirty days from the date of knowledge of the decree, the learned Civil Judge concluded that the application, having been filed on 01.07.2019, suffered from an inordinate and unexplained delay.

9.1. On the other hand, it was the specific case set up by the petitioner that he had gained knowledge of the judgment and decree only upon being informed by a bank official, and that the application had been preferred within thirty days from the said date of knowledge. The learned Civil Judge, however, upon an appreciation of the

material on record, rejected this contention and recorded detailed findings in paragraph 16 of the impugned order, which are reproduced here-in-below:-

16. Now comes to the question of limitation. As per applicant he came to know about the impugned judgment and decree about a week ago from filing of this petition on 01.07.2019 from bank officials of Sarv Haryana Gramin Bank Ladwa but nobody from said bank examined by the applicant. Further, it is pertinent to mention here that one Gaurav Kumar also filed a suit for specific performance against applicant and copy of plaint is Ex.R2. In that suit also applicant was proceeded against ex-parte and application to set aside ex-parte proceeding was filed, copy of which is Ex.R3. In that case also applicant was represented by Sh. K.K Gupta, Advocate. In that case, present respondent Darshan Singh had filed an application under Order 1 Rule 10 CPC for impleading himself as defendant no.5 and copy of that application is Ex.R4. In that application, applicant specifically mentioned about the pendency of Civil Suit No.CS/1099 of 2016. It shows that applicant was knowledge of above-mentioned suit since filing of application under Order 1 Rule 10 CPC of dated 16.04.2018, therefore, story put forward by the applicant regarding notice of impugned judgment from the bank official is not found to be tenable. Further, applicant in his evidence as AW1 specifically stated that in Civil Suit No.CS-648-2016 titled as Gaurav Kumar Vs. Sultan Singh and others, Sh. K.K Gupta appeared on his behalf. He also stated that he remain vigilant towards the proceeding of that case and he made regular inquiries from Sh. K.K Gupta about the proceeding of that case. He also admitted that in that case respondent Darshan also filed an application to implead him party. These all facts clearly shows that fact regarding pendency of civil suit No.CS-1099 of 2016 came into the notice of applicant on dated 16.04.2016 when application under Order 1 Rule 10 CPC filed by respondent Darshan Singh, copy of which is Ex.R4. In these circumstances it is clear that since 16.04.2018 the date of filing application under Order 1 Rule 10 CPC by the respondent in CS-648- 2016, till 01.07.2019 the date of filing present application, applicant remain negligent and filed the present application after much delay with lame explanation without any corroboration and due to that reason delay in filing the present application cannot be condoned, Even otherwise also court has no power to extend the period of limitation of equitable grounds because statutory provisions may cause hardship to a particular party but court has no choice but to enforce it giving full effect to same and in this regard reliance can be placed upon the authority reported as Shri Krishan Case (Supra) and Surinder Singh Case (Supra), This court also perused the authorities relied upon by the Ld. Counsel for the appellant but with due regards to those they are not applicable over the facts of present case.

10. There is no dispute with respect to the fact that an independent suit for specific performance of contract was instituted by one Gaurav against the petitioner. It is

also an admitted position on record that the respondent-plaintiff had moved an application under Order I Rule 10 of the Code of Civil Procedure in the said suit seeking impleadment as a party. Along with the said application, a copy of the judgment and decree passed against the present petitioner was duly annexed and placed on record.

10.1. From the filing of the said impleadment application, accompanied by the judgment and decree sought to be set aside, it stands conclusively established that the petitioner had acquired clear and unequivocal knowledge of the ex parte judgment and decree passed against him. The said application under Order I Rule 10 CPC was filed by Darshan Singh on 16.04.2018. In these circumstances, the learned Civil Judge (Senior Division), Kurukshetra, has rightly recorded a finding that the petitioner had knowledge of the judgment and decree at least from 16.04.2018.

10.2. Once the date of knowledge is determined as 16.04.2018, the limitation prescribed for filing an application under Order IX Rule 13 CPC, being thirty days therefrom, stood expired long prior to the filing of the present application on 01.07.2019. The application was thus instituted well beyond the statutory period of limitation. The learned Civil Judge (Senior Division) has, therefore, correctly concluded that the application was barred by limitation and was not maintainable.

10.3. Furthermore, the learned trial court has rightly observed that the application filed by the petitioner was not founded upon correct or bona fide facts. The petitioner deliberately suppressed the material circumstance of his prior knowledge of the judgment and decree, which had come to his notice during the pendency of judicial proceedings in which he himself was a party. The plea taken by the petitioner that he had acquired knowledge of the judgment and decree only a few days prior to filing the application, allegedly through a bank official, has rightly been disbelieved and rejected.

10.4. The record clearly establishes that the judgment and decree had been produced and relied upon in legal proceedings on 16.04.2018, which was more than fourteen months prior to the filing of the application seeking setting aside of the ex parte judgment and decree. The application under Order IX Rule 13 CPC is thus demonstrably based upon falsehood, concealment of material facts, and suppression of the true date of knowledge.

10.5. In view of the foregoing discussion, this Court finds no illegality, perversity, or jurisdictional error in the impugned orders whereby the application filed by the petitioner under Order IX Rule 13 CPC was dismissed by the learned Civil Judge (Senior Division), Kurukshetra, and the appeal preferred thereagainst was dismissed by the learned Additional District Judge, Kurukshetra. The findings recorded by both the courts below are well-reasoned, based on correct appreciation of facts and law, and do not call for interference in the exercise of revisional jurisdiction.

10.6. Consequently, the revision petition, being devoid of merit, is hereby dismissed.

11. It is, however, expressly clarified that the observations, findings, and conclusions recorded hereinabove shall not be construed, either directly or indirectly, as an expression of opinion on the substantive rights or merits of the underlying dispute between the parties. The said observations are confined strictly to the limited scope and jurisdictional parameters of the present proceedings and have been rendered solely for the purpose of adjudicating the issues presently falling for consideration before this Court.

12. In view of the fact that the principal lis stands finally adjudicated and disposed of by the foregoing order, all pending miscellaneous applications, if any, which are ancillary, incidental, or consequential to the main proceedings, shall also stand disposed of accordingly, without the necessity of passing any separate or further orders.