



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(131)

CR-3409-2026 (O&M)
Date of Decision: **22.04.2026**

JASVINDER SINGH GREWAL AND ANR

... Petitioners

Versus

JOGINDER KAUR AND ANR

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Ashish Soi, Advocate
for the petitioners.

VIRINDER AGGARWAL, J. (Oral)

1. The present petition has been instituted under Article 227 of the Constitution of India, invoking the supervisory jurisdiction of this Court, to assail the order dated 17.03.2026 (**Annexure P-7**), whereby the appeal preferred by the petitioner against the order dated 19.10.2019 (**Annexure P-5**) has been dismissed.

2. The proponent's case is that the respondent instituted a suit for mandatory injunction seeking delivery of vacant possession of the suit land and a consequential restraint against the petitioner from alienating the same. The petitioner initially appeared and moved an application under Order VII Rule 11 of the Code of Civil Procedure, 1908 ("CPC"). Subsequently, the petitioner was proceeded ex parte, culminating in an ex parte judgment and decree dated 11.02.2015. Thereafter, the petitioner moved an application under Order IX Rule 13 CPC for setting aside the ex parte judgment and decree within 30 days from the date of knowledge.



The said application was dismissed by the learned Trial Court vide order dated 19.10.2019. Aggrieved thereby, the petitioner preferred an appeal, which too has been dismissed by the impugned order, giving rise to the present petition.

3. I have considered the submissions advanced by learned counsel for the petitioner and have carefully perused the record.

4. Learned counsel for the petitioner contends that the Courts below have failed to appreciate that the petitioner was prevented by sufficient cause from appearing, inasmuch as he had already moved an application under Order VII Rule 11 CPC at the initial stage. It is further contended that settlement negotiations were underway between the parties, and taking advantage of the situation under the guise of compromise, the respondents procured an ex parte decree. It is also submitted that the learned First Appellate Court has rejected the appeal on a purely technical ground relating to non-filing of a separate application for condonation of delay, without appreciating that the explanation for delay was already incorporated in the application under Order IX Rule 13 CPC itself, and therefore, no separate application was required in law.

5. The core issue for consideration is whether the petitioner had duly appeared in the suit proceedings and was subsequently proceeded ex parte. It is an admitted position that an ex parte judgment and decree was passed against the petitioner on 11.02.2015, whereas the application under Order IX Rule 13 CPC seeking setting aside of the said judgment and decree was instituted on 02.07.2015, i.e. well beyond the prescribed period of 30 days.



5.1. Order IX Rule 13 CPC contemplates setting aside of an ex parte decree only upon establishment that summons were not duly served or that the defendant was prevented by sufficient cause from appearing when the matter was called for hearing. The limitation prescribed for such an application is 30 days, computed from the date of decree where service is duly effected, and from the date of knowledge only in cases of non-service.

5.2. In the present case, the petitioner had admittedly entered appearance in the suit proceedings and had even moved an application under Order VII Rule 11 CPC, after which he was proceeded ex parte. Consequently, the limitation would necessarily run from the date of the decree and not from the alleged date of knowledge. The application having been filed beyond the statutory period, the same is clearly barred by limitation.

6. In terms of Article 123 of the Limitation Act, 1963, an application for setting aside an ex parte decree is maintainable within 30 days from the date of decree, or where summons were not duly served, within 30 days from the date of knowledge. In the present case, since the petitioner had already entered appearance, the limitation is computable from the date of decree itself. Both Courts below have rightly concluded that the application is barred by limitation. No infirmity or illegality is made out warranting interference. Accordingly, the petition, being devoid of merit, is **dismissed**.

7. It is, however, clarified that the observations made hereinabove are confined strictly to the adjudication of the present petition and shall not be construed as an expression of opinion on the merits of the



underlying dispute. The same shall not prejudice the rights or contentions of either party in any other proceedings.

8. In view of the disposal of the principal matter, all pending miscellaneous applications, if any, also stand disposed of. No further orders are required to be passed.

22.04.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No