

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

Civil Revision No.2765 of 2015

Date of decision: 07.05.2015

Baldev and others

... Petitioners

versus

Shri Krishan (deceased) through his LRs and others.

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. S.K. Tripathi, Advocate,
for the petitioners.

K.Kannan, J. (Oral)

1. A suit which is instituted in the year 1998 came to be decided ex parte on 20.11.2006 when the defendant remained ex parte. The defendant, who is the petitioner's father appeared to have died subsequent to the passing of decree on 13.03.2007. It was a suit for injunction and the notice in execution had been served on the petitioner as a legal representative of his father complaining of disobedience of the decree of injunction notice under Order 21 Rule 32 CPC. It was at that time that the defendant filed an application to set aside the ex parte decree that was passed on 14.08.2007. The contention was that the father was suffering from serious illness and that the father had not informed them that he had a legal proceeding and that he had remained ex parte.

2. In a case where a party was served and a decree was passed, the petition for setting aside the decree must be filed within 30 days from the date of decree and the issue of knowledge is irrelevant. The knowledge will be important for consideration only in a situation where the notice itself was not served in suit. There was, therefore, even an application for setting aside the ex parte decree was barred by limitation.

3. I asked the counsel as to nature of illness that the father had. The counsel says that the father was old and would later qualify it as a paralytic attack. I asked him for any proof of such a contention but he would have none. The trial Court has found that there was no case made for reopening the case and the appellate court confirmed the same. With the quality of evidence given and the petition which was patently barred by limitation, I do not think any further help or intervention is possible. The impugned order is maintained and the revision petition is dismissed.

(K.KANNAN)
JUDGE

07.05.2015
sanjeev