

223.

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

**Civil Revision No.4219 of 2013**

Date of decision: 08.12.2015

M/s Mahadev Parshad Bhawani Dutt Commission Agents Mandi  
Kesar Ganj, Ludhiana and another.

... Petitioners

versus

M/s Narsi Dass Krishan Kumar, Commission Agents, New Anaj  
Mandi, Kaithal, and another.

.... Respondents

**CORAM: HON'BLE MR. JUSTICE K. KANNAN**

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Present: Mr. Tapish Gupta, Advocate,  
for Ms. Puja Chopra, Advocate,  
for the petitioners.

Mr. Rajinder Goyal, Advocate,  
for the respondents.

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**K.Kannan, J. (Oral)**

1. The petition to set aside the ex parte decree passed in the year 2008 came to be filed 2 years later in January 2010. In the application, it was stated that he came to know about the decree on service of notice in execution which was only in the year 2010 but wrongly stated as 2009 in the application. The court found that there was no justification made for setting aside the decree and dismissed the application. The appellate court also confirmed the same.

2.           Though I am not convinced there is any good ground for setting aside, having regard to the fact that the amount of ₹ 2,50,000/- is reported to have been deposited pursuant to the orders of the court, there is substantial reparation possible for a decree holder who has been put at bay by an action for setting aside the ex parte decree. I allow the application to set aside the decree but will also permit the decree holder to withdraw the amount of what has been deposited at the execution stage, without any security. If the suit is decreed, the amount realized now will constitute a payment towards the decree either as full satisfaction or part satisfaction, as the case may be, recorded for consideration of whether further process in execution would be levied or not. If the suit is dismissed, the petitioner shall be entitled to secure return of the sum with interest by way of restitution.

3.           The order already passed is set aside and the revision petition is allowed on the above terms.

**(K.KANNAN)**  
**JUDGE**

08.12.2015  
sanjeev