

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

CR No. 2121 of 2003 (O&M)
Date of decision: May 27, 2015.

Guru Nank Education Scientific & Cultural Society and others
...Petitioners

Versus

M/s Harbans Lal and Brothers and another
...Respondents

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

- 1. Whether Reporters of local papers may be allowed to see the judgment ?**
- 2. To be referred to the Reporters or not ?**
- 3. Whether the judgment should be reported in the Digest?**

Present: Mr. G.S. Jaswal, Advocate,
for the petitioners.

Mr. C.L. Sharma, Advocate,
for the respondents.

K. KANNAN, J. (Oral)

1. The revision is against the order dismissing an application for setting aside the ex-parte decree passed on 25.2.1987. The suit had been filed for recovery of money against the defendant-society for value of bricks alleged to have been supplied. The application was filed on 3.9.1990 on a plea that the suit summons have not been served and only publication had been effected in Punjabi newspaper which has no circulation. The Society represented by the Secretary Jagmohan Singh was not living in Hoshiarpur described in the plaint, where summons was said to have been taken but he was living away in Delhi and was later doing some business at Allahabad.

According to the Secretary, who filed the application through power of

attorney Smt. Neelam Khosla, the petitioners came to know about the ex-parte decree only at the stage of execution by proclamation of sale of properties that was made on 23.8.1990 and the application had been filed within 30 days from the said date on 3.9.1990.

2. During the course of the trial of the application, it was elicited in the cross-examination of one of the applicants witnesses that the chowkidar of the building owned by the Society was actually served on 15.6.1986 and the endorsement on the summons had been exhibited as DH/1. The contention, therefore, was that the service effected on the agent constituted knowledge on principal and the application filed on 3.9.1990 was barred by limitation. It was also pointed out that the Secretary Jagmohan Singh himself was not examined to speak about his alleged residence at Delhi and later his work at Allahabad and the evidence was tendered only through the power of attorney Neelam Khosla. She had admitted to the Secretary's visits at the village and the court of the first instance found that there was no justification for remaining absent on the date of hearing and attributed the knowledge of the chowkidar as knowledge to him as well. The application was also dismissed on the ground it was barred by limitation. The reasoning of the court at first instance was affirmed by the lower appellate court.

3. There was an offer by the petitioners to pay the value of the bricks supplied at the present rate but the counsel for the respondents would not accept any such offer at this belated time having regard to the fact that the decree was secured 25 years back. I find the reasoning of the courts below for dismissal of the petition as extracted in the preceding para to be adequate and sound and see no point for intervention in revision.

4. The revision petition is dismissed.

May 27, 2015
prem

(K.KANNAN)
JUDGE