

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

**C.R. No.3699 of 2016
Date of Decision.26.05.2016**

Raghbir Singh	Vs.	Petitioner
Babaldeep Singh alias Buta Singh		Respondent

Present: Mr. J.S. Thind, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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

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K. KANNAN J. (ORAL)

1. The revision petition is against the order of dismissal of application filed under Section 10 CPC. Section 10 CPC shall be invoked in a situation when between the same parties, there had been an earlier suit instituted. However, the suit was decreed ex parte and it appears that the application to set aside the ex parte decree was filed and it is still pending. Section 10 CPC could be invoked only in a situation of previously instituted suit which is pending and in case where it has been already decreed and only an application to set aside the ex parte decree is pending, it cannot be even invoked. It will be appropriate that a petition is moved for either stay or rejection of the plaint after the earlier decree which is said to have been passed ex parte is set aside. So long as the trial of the previous suit is not possible, the issue of stay of proceeding in subsequently instituted suit does not arise.
2. The order dismissing the application was justified and I will find no reason for interference. The revision petition is dismissed at this stage.

**(K. KANNAN)
JUDGE**

May 26, 2016
Pankaj*