

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

**CR No. 4856 of 2016(O&M)**

**Date of decision: 14.12.2016**

Ishwar Singh

....Petitioner

VERSUS

Vena alias Beena Vashist

.....Respondent

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. R.S. Sangwan, Advocate for the petitioner.

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**REKHA MITTAL, J.(Oral)**

The present petition directs challenge against orders dated 14.06.2012 passed by the Additional Civil Judge (Senior Division), Rewari and dated 23.05.2016 passed by the Additional District Judge, Rewari whereby application filed by the petitioner under Order 9 Rule 13 of the Code of Civil Procedure, 1908 (in short 'CPC') for setting aside order dated 21.09.2005 as well as judgment and decree dated 13.02.2008 was dismissed by the trial Court and the findings recorded by the trial Court were affirmed in appeal by the Additional District Judge.

Smt. Veena @ Bena Vashist filed a suit for possession by way of specific performance of agreement to sell in which the petitioner was proceeded against ex parte and ultimately ex parte judgment and decree was passed. The petitioner initiated the proceedings for setting aside the ex parte judgment and decree.

Both the Courts below have taken note of a material and vital fact that in the proceedings for execution of the ex parte decree, the petitioner appeared in person on 27.09.2008 and 22.10.2008 and made a

statement that he would execute the sale deed as per decree. The present application for setting aside the ex parte judgment and decree was filed in July 2009. Taking into consideration conduct of the petitioner coupled with the factum that the application is clearly barred by limitation, the Court negated plea of the petitioner that there are sufficient grounds to set aside ex parte judgment and decree dated 13.02.2008.

Counsel for the petitioner has not disputed these factual findings recorded by the Courts below. In view of the above coupled with the factum that there is no explanation on behalf of the petitioner to justify his conduct in this regard, there is no merit in contention of the petitioner that the orders impugned suffer from any error much less illegality warranting intervention in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

For the foregoing reasons, the petition fails and is accordingly dismissed *in limine*.

**DECEMBER 14, 2016**

‘D. Gulati’

**(REKHA MITTAL)**  
**JUDGE**

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|---------------------------|---|--------|
| Whether speaking/reasoned | : | yes/no |
| Whether reportable        | : | yes/no |