

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

CR No.4263 of 2017 (O&M)

Date of decision : 05.12.2017

Dalip Singh

...Petitioner

Versus

Anil Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Satinder Khanna, Advocate for the petitioner.

Mr. Naveen Upadhyay, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

The Judgment Debtor is in the revision petition against the order dated 16.01.2008 dismissing the application for setting aside the ex parte decree.

An application for setting aside the ex parte decree was filed on 19.09.2014 and the same was dismissed by the trial Court vide order dated 24.04.2017 and the appeal filed against the same was also dismissed on 24.05.2017.

Both the Courts below have noticed that in the execution petition, the petitioner was served and he was represented by a counsel. He had also filed objections in the year 2011. The Courts have noticed that in these circumstances, the petitioner had a knowledge of the decree passed against him in the year 2010/2011.

As per the Article 123 of the Schedule attached to the Limitation Act, 1963, the application must be filed within a period of 30 days from the date of the decree or where the summons or notice was not duly served when the applicant had a knowledge of the decree. In the present case, the applicant had a knowledge of a decree on service of summons in the execution petition. Therefore, the application filed by the petitioner on 19.09.2014 was clearly barred by time.

Learned counsel for the petitioner has submitted that the petitioner is a poor person and the Court should grant indulgence to him.

I have considered the submission. However, taking into consideration that the petitioner had a knowledge of the decree passed and he was contesting the execution petition, this Court does not find any good ground to interfere with the present revision petition.

Revision petition is dismissed.

All the pending miscellaneous applications are disposed of, in view of the abovesaid order.

05.12.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No