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

**Civil Revision No.1714 of 2019(O&M)
Date of Decision: 30.10.2019**

JASVIR @ JASBIR

.....Petitioner

Vs

CHAMAN LAL

....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Pritam Singh Saini, Advocate
for the petitioner.

Mr. Vivek Khatri, Advocate
for the respondent.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has preferred this revision petition against the impugned orders dated 03.04.2018 and 03.12.2018 passed by the Courts below vide which the application under Order 9 Rule 13 CPC was dismissed concurrently.

[2]. Perusal of the record would show that the petitioner being arrayed as defendant in Civil Suit No.RBT 307 of 2009 was proceeded against *ex parte* after proper service and even after filing written statement. The issues were framed and both the parties went to trial on definite issues. Plaintiff Chaman Lal

led his evidence. The defendant/petitioner failed to appear in the trial Court and consequently he was proceeded against *ex parte* on 05.09.2012. On the basis of *ex parte* evidence led by the plaintiff, a decree for declaration was granted and the sale deed dated 10.07.2007 and consequent mutation were declared to be null and void.

[3]. Thereafter, the application under Order 9 Rule 13 CPC came to be filed on 19.02.2016 without filing application for condonation of delay. The trial Court has noticed that the petitioner was proceeded against *ex parte* on 05.09.2012 and the said order has not been assailed even in the application under Order 9 Rule 13 CPC, vide which only judgment and decree dated 08.07.2014 was assailed. Further the date of acquiring knowledge has not been pleaded by the petitioner with reference to any material particulars. The limitation for setting aside *ex parte* judgment and decree in view of Article 123 of the Limitation Act is of 30 days from the date of acquiring knowledge. Even as per orders passed by JMJC, the petitioner was regularly appearing in criminal case during the period of his absence shown in the petition i.e. from the years 2012 to 2014. This fact also shows that the petitioner has not come to the Court with clean hands.

[4]. In the absence of any such specific plea of acquiring

knowledge in the application under Order 9 Rule 13 CPC and in view of not challenging the order dated 05.09.2012, I do not see any infirmity in the impugned orders passed by the Courts below dismissing the application under Order 9 Rule 13 CPC concurrently. This revision petition is found to be devoid of merits and is accordingly dismissed.

October 30, 2019

Atik

Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No