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

**CR-4097-2019 (O&M)
Date of decision: 01.08.2022**

Raj Kumari

... Petitioner

Vs.

Prem Kumar Kundra

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Arun Takhi, Advocate
for the petitioner.

Mr. Piyush Khanna, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (ORAL)

On the face of it, it is a case, where the poor litigant is suffering because of wrong legal advice given to her that instead of filing this petition, proper course under Order 9 Rule 13 CPC is to move an application for setting aside the ex-parte judgment before the trial Court, where not only a prayer could be made for staying the execution of warrants of possession, but a prayer could be made that earlier ex-parte order be set aside, as the same is obtained by concealing the facts or by not effecting proper service. However, considering the fact that ultimate sufferer will be the petitioner, who is an old age lady, this petition is disposed of with liberty to the petitioner to file an

application before the trial Court for setting aside the ex-parte decree, if so advised.

In case the application is filed within a period of 30 days from today, the trial Court/Executing Court will decide the same on merits, without raising any objection regarding limitation, considering the well settled proposition that if an ex-parte decree in a suit for possession by way of specific performance is passed, the ultimate sufferer is the defendant, who will loose the property.

Disposed of accordingly.

[ARVIND SINGH SANGWAN]
JUDGE

01.08.2022
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No