



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123

CR-377-2019

Date of decision: 28.04.2025

HARDEEP SINGH AND ANOTHER

..Petitioners

Versus

KARAM SINGH (DECEASED) THROUGH LRS. & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Raman Sharma, Advocate for the petitioners.

Mr. Naveen Batra, Advocate for respondents.

ANIL KSHETARPAL, J(Oral)

1. The defendants assail the correctness of concurrent orders passed by the Courts below while dismissing their application under Order IX Rule 13 of the Code of Civil Procedure, 1908 (in short 'CPC') to set aside the *ex parte* decree. Admittedly, the defendants were served with a notice and they engaged a counsel. After the defendants have examined four witnesses, the counsel for plaintiffs pleaded no instructions on 21.07.2006. Thereafter, the Court adjourned the case on 13.06.2007, 29.11.2007, 12.04.2008, 23.05.2008, 20.08.2008, 12.09.2008, 24.10.2008, 12.12.2008, 17.01.2008, 30.03.2009, 17.04.2009, 27.04.2009, 16.05.2009, 30.05.2009 and then the suit was finally decided on 08.06.2009. The defendants filed application to set aside *ex parte* only on 15.06.2011.

2. Both the Courts have held that the plaintiffs have failed to furnish sufficient cause for failing to file the suit for a period of nearly two years.



3. Learned counsel for the petitioner submits that initial orders proceeding against *ex parte* passed by the Court on 21.07.2006 on the statement of petitioners counsel pleading no instructions were erroneous. He relies upon judgment passed in **Tahil Ram Vs. Ramchand, 1993 AIR (SC) 1182.**

4. This Court has considered the submissions of learned counsel for the petitioners.

5. It is evident that the petitioners were proceeded against *ex parte* on 21.07.2006. They filed the application for setting aside *ex parte* order on 15.06.2011. They failed to furnish any plausible explanation for delay of nearly five years in filing the application. The overall conduct of the petitioners is required to be examined. Both the Courts have found that the petitioners failed to justify their absence for the Court proceedings. As per Article 123 of the Schedule attached to the Limitation Act, 1963, the application to set aside a decree passed *ex parte* is required to be filed within 30 days from the date of decree.

6. In this case, the petitioners were served. They were represented by a counsel, hence, they were required to file an application within 30 days of the decree.

7. Hence, no ground to interfere is made out,

8. The revision petition is dismissed.

9. All the pending miscellaneous applications, if any, are also disposed of.

April 28th, 2025

Ayub

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE