

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

107

2025:PHHC:014799



**SAO-44-2019 (O&M)
Date of decision: 31.01.2025**

DEVANTI DEVI

..Appellant

Versus

VIDHYA DEVI

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. A.P. Bhandari, Advocate
Ms. Bhargavi, Advocate
for the appellant.

Mr. Kulbhushan Sharma, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

1. Through this appeal, the appellant assails the correctness of concurrent orders passed by the Courts below while dismissing her application under Order IX Rule 13 Code of Civil Procedure, 1908 (in short 'CPC') to set aside ex parte decree dated 22.02.2014. It has come on record that the defendant (appellant herein) refused to receive summons on 10.12.2013. The suit was decreed on 22.02.2014. The decree holder filed the execution petition. In this application, notice was served upon Smt. Rani Gupta, the daughter of the appellant. This fact had been admitted by appellant's son when he appeared in evidence. Moreover, the appellant filed a criminal complaint. During her deposition in criminal case on 15.06.2016, the judgment and decree was brought to her notice. Still, the defendant failed to take immediate steps but chose to file the application on 21.04.2017. Thus, both the Courts have concluded that the defendant had knowledge of the suit and decree passed against her in February, 2014.



2. Learned counsel for the appellant contends that an endorsement of refusal by the plaintiff was not supported by affidavit, hence, the appellant was incorrectly proceeded against ex parte. He relies upon the judgment passed in *Pritam Singh Vs. Raj Kumar, 2013 (4) PLR 358.*

3. The question that arises before this Court for consideration is ‘whether the appellant (defendant before trial Court) filed the application under Order IX Rule 13 of the CPC within the prescribed time or not?’

4. As already noticed, the appellant despite having knowledge of the decree not only on 15.04.2017 but also on 15.06.2016 chose not to file the application within the period of 30 days.

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

6. Dismissed accordingly.

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

January 31st, 2025

Ay

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*