



2026:PHHC:001266



114 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.23 of 2026

Date of Decision : January 09, 2026

Varinderjeet Singh (wrongly mentioned as Varinder Singh) . . . Petitioner
vs

Joginder Pal Narula and others . . . Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Vijay Lath, Advocate for the petitioner.

DEEPAK GUPTA, J.

The petitioner is defendant No.2 in a civil suit bearing CNR No. PBSA02-001841-2019 titled '*Joginder Pal Narula and others v. Balwinder Singh @ Kaka and another*', pending before the learned Additional Civil Judge (Senior Division), SAS Nagar (Mohali). The petitioner was proceeded against ex parte on 10.01.2020.

2. An application under Order IX Rule 7 CPC (Annexure P-5) seeking setting aside of the ex parte proceedings was filed on 02.09.2025. The said application was dismissed by the trial Court vide order dated 10.11.2025 (Annexure P-1). Aggrieved thereby, the petitioner has approached this Court by way of the present revision petition.

Submissions on Behalf of the Petitioner :

3.1 Learned counsel for the petitioner contends that service of summons was not effected personally upon the petitioner. It is argued that service is shown to have been effected through the petitioner's father, whereas the relationship between the petitioner and his father was strained, due to which the petitioner was never informed about the receipt of summons.

3.2 It is further submitted that the process server failed to comply with the mandatory requirements of Order V Rule 15 CPC, which permits service upon an adult member of the family only when the defendant is absent from the residence for a considerable time. According to learned counsel, no such satisfaction was recorded.

3.3 It is also urged that the petitioner acquired knowledge of the pendency of the suit only a week prior to filing the application under Order IX Rule 7 CPC and that delay, by itself, cannot be a ground for rejection.

3.4 Lastly, it is contended that no period of limitation is prescribed for filing an application under Order IX Rule 7 CPC.

Consideration by the Court

4. This Court has heard learned counsel for the petitioner at length and has carefully perused the impugned order as well as the record.

5. The impugned order reflects a detailed examination of the petitioner's conduct and the surrounding circumstances. The trial Court has noticed that vide order dated 27.11.2019, an ad interim injunction was granted restraining the defendants from alienating the suit property or raising construction thereon. The plaintiff was directed to comply with Order XXXIX Rule 3 CPC and the matter was adjourned to 10.01.2020.

6. In compliance thereof, notice was sent to the defendants through registered post, and the postal receipt was placed on record on the same date, i.e., 27.11.2019. Additionally, notice was also sent through ordinary process.

7. Though the petitioner claimed that his correct name is "Varinderjeet Singh" whereas the summons mentioned "Varinder Singh", it is not disputed that the father's name and the address mentioned on the summons were correct. The process server reported that the petitioner's father received the summons at his responsibility after having a conversation with the petitioner himself.

8. The matter does not rest here. One of the plaintiffs, Ashok Kumar, had lodged a complaint with the police alleging attempted encroachment by the defendants. In pursuance thereof, both parties were summoned to the police station, where pendency of the civil suit, with the next date of hearing fixed as 10.01.2020, was duly acknowledged. A compromise (Ex.P-6) was entered into between the parties, wherein both defendants, including the present petitioner, expressly agreed not to raise construction over the suit property. The said compromise bears the signatures of the petitioner and unequivocally establishes his knowledge of the pendency of the suit prior to 10.01.2020.

9. In view of the above material, the plea of the petitioner that he gained knowledge of the suit only a week prior to filing the application in September 2025 is wholly untenable. No documentary or independent material has been placed on record to substantiate the assertion that relations between the petitioner and his father were strained. This plea appears to be an afterthought and a clear attempt to mislead the Court.

10. The scope of an application under Order IX Rule 7 CPC is limited. Unlike Order IX Rule 13 CPC, the relief under Rule 7 is discretionary and equitable. The applicant must establish that his absence on the date when he was proceeded ex parte was for 'good cause' and that the discretion of the Court deserves to be exercised in his favour. The provision does not confer an unfettered or vested right to reopen proceedings.

11. Though the Code of Civil Procedure does not prescribe a specific period of limitation for an application under Order IX Rule 7 CPC, it is well settled that Article 137 of the Limitation Act, 1963 applies to all applications filed before civil courts unless expressly excluded. The residuary period of three years cannot be rendered illusory by prolonged and unexplained inaction.

12. In ***Town Municipal Council, Athani v. Presiding Officer, Labour Court, Hubli and Ors. (1969) 1 SCC 873*** the Hon'ble Supreme Court held that Article 137 applies to applications made under any statute to a civil court,

laying the foundation for the applicability of the residuary article beyond the Code of Civil Procedure. The law was conclusively settled by a Constitution Bench of the Hon'ble Supreme Court in ***Kerala State Electricity Board, Trivandrum v. T.P. Kunhaliumma, AIR 1977 SC 282***, wherein it was held that Article 137 governs *all* applications presented before civil courts, irrespective of whether such applications arise under the CPC or a special statute, unless its application is expressly or impliedly excluded.

13. In the circumstances, the reliance placed by learned counsel for the petitioner, to contend that there is no limitation to move application under Order IX Rule 7 CPC, on ***Ghanshyam Dass v. Kamal Kishore 2011(3) R.C.R. (Civil) 846***, is misplaced.

14. In the present case, the ex parte order was passed on 10.01.2020. The application under Order IX Rule 7 CPC was moved only on 02.09.2025, despite the petitioner having full knowledge of the proceedings from the very inception. The delay of more than five years is gross, unexplained, and destructive of any claim to equitable relief. The application is, therefore, clearly barred by limitation as well as by laches.

15. The stage at which the application was moved is also of relevance. The suit had progressed to the stage of defendants' evidence. Entertaining the application at such an advanced stage would have the effect of unsettling concluded proceedings and rewarding deliberate delay, which the Court cannot countenance.

16. The revisional jurisdiction of this Court is confined to correcting jurisdictional errors, perversity, or material illegality. The trial Court has exercised its discretion on the basis of cogent material and settled principles of law. No jurisdictional error or perversity is demonstrated. Mere possibility of a different view is no ground for interference.

Conclusion:

17. In view of the foregoing discussion, this Court finds no illegality, infirmity, or perversity in the well-reasoned order passed by the trial Court. The impugned order does not warrant interference in the exercise of

revisional jurisdiction. Accordingly, the present revision petition is dismissed as being devoid of merit.

18. However, in order to balance procedural discipline with the requirements of natural justice, the petitioner is permitted to participate in the further proceedings before the trial Court. Such participation shall not have the effect of reopening the proceedings already concluded. The petitioner shall not be entitled to file a written statement or to lead evidence. The revision petition is accordingly dismissed.

January 09, 2026
Sarita

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No