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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

**"JUDICIAL DISCIPLINE AND SUPERVISORY LIMITS  
UNDER ARTICLE 227: A CASE ANALYSIS OF KANCHHU  
VS. PRAKASH CHAND & ORS. [2025 INSC 542]"**

AUTHORED BY - DR. VANDITA CHAHAR & TUSHAR TIWARI

Subject: Scope and Limits of Supervisory Jurisdiction under Article 227 of the Constitution;  
Setting Aside Ex Parte Decrees under Order IX Rule 13 of the CPC.

Case Title:

Kanchhu vs. Prakash Chand & Ors., 2025 INSC 542

Civil Appeal No. 5319 of 2025 (arising out of SLP(C) 20978 of 2024)

Judges:

Hon'ble Mr. Justice Dipankar Datta

Hon'ble Mr. Justice Manmohan

Date: April 22, 2025

**Introduction**

In Kanchhu vs. Prakash Chand & Ors. [2025 INSC 542], the Supreme Court of India overturned the High Court's decision, which had improperly invoked its supervisory jurisdiction under Article 227 to quash an ex parte decree. The Supreme Court reiterated that Article 227 is not an appellate provision, emphasizing that the High Court's role is limited to ensuring that subordinate courts act within their jurisdiction, not to reassess factual findings. The Court further highlighted that the relief under Order IX Rule 13 CPC for setting aside an ex parte decree requires a strict and credible demonstration of sufficient cause. This judgment underscores the importance of judicial discipline, procedural fairness, and litigants' diligence in the judicial process, reaffirming the boundaries of judicial review and the need for litigants to adhere to procedural timelines and requirements.



## **Brief Facts**

1. Initial Suit: The appellant filed a civil suit in 1987 for cancellation of a registered sale deed dated 5 September 1984, alleging fraud.
2. Written Statement: Respondents filed their written statement in September 1987, denying fraud and alleging familial discord as the reason for the suit.
3. Proceedings: Despite filing a written statement, respondents frequently sought adjournments and were set ex parte on April 24, 1991.
4. Ex Parte Decree: The trial court recorded plaintiff's evidence and decreed the suit ex parte on August 17, 1991.
5. Application for Recall: Respondents filed an application under Order IX Rule 13 CPC with a delay condonation plea. The trial court rejected the delay condonation in 1997.
6. Revival through Revision: Civil revision allowed; the trial court heard the recall application on merits and dismissed it in 2002. The appellate court upheld this decision in October 2002.
7. High Court Proceedings: Respondents filed a writ petition in the High Court under Article 227. Initially dismissed as infructuous in 2011, it was revived in 2018 on grounds that their counsel failed to inform them.
8. High Court's Decision: Allowed writ, quashed the ex parte decree and directed re-trial, without properly analyzing the recall application or appellate reasoning.

## **Arguments**

### **Appellant's Arguments (Kanchhu)**

1. **Procedural Discipline Maintained:**
  - The trial court rightly proceeded ex parte after the respondents repeatedly sought adjournments and showed negligence in contesting the suit.
2. **Delay Was Inordinate and Unexplained:**
  - Respondents approached the court with a delay of several years, offering no credible justification.
  - The excuse of illness was unsupported and lacked evidentiary proof — neither the doctor nor the respondent testified.
3. **Concurrent Findings of Fact:**
  - Both the trial court and appellate court rejected the recall application after detailed evaluation of evidence.



- High Court had no jurisdiction under Article 227 to reassess facts or act as an appellate authority.
- 4. **Written Statement Irrelevant After Being Set Ex Parte:**
  - Once set ex parte, the respondent could not rely on their written statement without participating further in the proceedings.
- 5. **High Court Overstepped Jurisdiction:**
  - The High Court erroneously re-appreciated evidence and findings of fact, contrary to the limited scope under Article 227.
- 6. **Reliance on Precedents:**
  - Cited *Surya Dev Rai v. Ram Chander Rai* and *Shalini Shyam Shetty v. Rajendra Shankar Patil* to stress the restrictive ambit of Article 227.

#### **Respondents' Arguments (Prakash Chand & Ors.)**

- 1. **Denial of Opportunity to Contest:**
  - Claimed they were prevented from participating due to illness and communication gaps with their counsel.
- 2. **Mistake of Counsel:**
  - Alleged that their lawyer did not properly inform them about the ex parte decree, leading to procedural lapses.
- 3. **Substantial Defence on Merits:**
  - Argued that their written statement raised substantial questions denying fraud, and the trial court should have considered their defence even in ex parte proceedings.
- 4. **Delay Was Bona Fide:**
  - The delay in filing the recall application was explained on medical and circumstantial grounds, deserving a liberal interpretation in the interests of justice.
- 5. **High Court's Power Under Article 227:**
  - Asserted that the High Court was justified in exercising supervisory jurisdiction to prevent injustice resulting from a technical default.
- 6. **Right to Fair Trial:**
  - Invoked the principle that justice should not suffer for procedural lapses when a genuine defence exists.

## Legal Issue

Whether the High Court was justified in exercising jurisdiction under Article 227 to set aside concurrent findings of the trial and appellate courts rejecting the recall of an ex parte decree

### Supreme Court's Holding

The Supreme Court answered the question in the negative, setting aside the High Court's order. It upheld the appellate court's decision dismissing the application under Order IX Rule 13 CPC.

### Reasoning of the Supreme Court

#### 1. Misuse of Article 227 Jurisdiction:

The High Court wrongly acted as an appellate authority over the trial court's decree, instead of reviewing procedural legality.

It failed to limit itself to examining whether sufficient cause was shown for non-appearance, which is the true scope under Article 227.

#### 2. Delay in Seeking Recall:

The writ petition was dismissed in 2011; the recall application came 7 years later.

Supreme Court found this delay unjustifiable, particularly as respondent no. 1 was a lawyer and should have pursued the matter diligently.

#### 3. Failure to Prove Illness:

The excuse of illness starting from August 15, 1991, did not explain absence on earlier key dates (including April 24, 1991, when ex parte order was passed).

Medical certificate lacked credibility; neither respondent nor doctor testified to prove illness.

#### 4. Negligence and Repeated Adjournments:

The respondents were granted 10 adjournments and failed to contest the suit actively. Their indifference precluded relief under Order IX Rule 13 CPC.

#### 5. Misinterpretation of Ex Parte Proceedings:

High Court erroneously stated that the trial court should have considered the written statement during ex parte proceedings.

Supreme Court clarified that once a party is set ex parte, their right to present evidence or arguments is curtailed; they may only cross-examine.

#### 6. Failure to Appreciate Lower Court Findings:

High Court ignored well-reasoned orders of the trial and appellate courts.

The Supreme Court stressed the need for “judicial discipline” and proper appreciation of procedural findings.

### Key Legal Principles Reaffirmed

#### 1. Scope of Article 227:

It is a supervisory, not appellate, jurisdiction. Courts must not re-evaluate facts or act as appellate courts.

#### 2. Order IX Rule 13 CPC:

Relief under this provision requires strict demonstration of sufficient cause.

Medical certificates or general excuses without cross-examination or credible proof won't suffice.

#### 3. Due Diligence:

Litigants must remain vigilant. Negligence or lawyer's fault is not a blanket ground for condonation or relief.

#### 4. Effect of Ex Parte Orders:

A defendant set ex parte cannot expect their written statement to influence final judgment unless legally considered through cross-examination or re-engagement in proceedings.

### Critical Commentary

The Supreme Court's ruling in *Kanchhu vs. Prakash Chand & Ors.* [2025 INSC 542] marks a significant reaffirmation of the fundamental principles governing procedural law and the supervisory role of High Courts under Article 227 of the Constitution of India. The judgment sends a powerful message reinforcing the importance of **judicial discipline**, **procedural rigour**, and **institutional boundaries** within the Indian judicial system.

#### 1. Strengthening Procedural Diligence

At its core, the judgment underscores that **procedural diligence** is not a mere technical formality but a substantive requirement for securing justice. Litigants are expected to actively

and conscientiously pursue their cases. The respondents' repeated negligence, reflected in numerous adjournments and failure to participate meaningfully, demonstrated a lack of bona fide engagement with the judicial process.

By refusing to condone such conduct, the Court emphasized that **litigants cannot expect leniency where there is evident procedural indifference**, thereby upholding the sanctity of procedural norms.

## 2. Clarifying the Scope of Article 227

One of the most important contributions of this judgment is its **clarification of the scope and limits of Article 227**. Supervisory jurisdiction is meant to ensure that subordinate courts act within the bounds of their jurisdiction and observe the mandates of law. It is **not a substitute for appellate jurisdiction**.

The High Court, by reassessing factual findings and interfering with concurrent decisions of the trial and appellate courts, blurred this distinction. The Supreme Court rightly corrected this judicial overreach, echoing earlier rulings such as:

- *Surya Dev Rai v. Ram Chander Rai* [(2003) 6 SCC 675], which emphasized that supervisory jurisdiction should not transform into a reevaluation of facts; and
- *Shalini Shyam Shetty v. Rajendra Shankar Patil* [(2010) 8 SCC 329], which reiterated that interference under Article 227 must be confined to instances of patent error or gross miscarriage of justice.

Thus, the ruling fortifies the jurisprudential understanding that **Article 227 is supervisory, not appellate**, preserving the hierarchical integrity of the judicial process.

## 3. Stringent Standards for Setting Aside Ex Parte Decrees

Another vital aspect of the decision is the strict approach the Court adopted regarding applications under **Order IX Rule 13 CPC** for setting aside ex parte decrees.

The Court observed that:

- **Sufficient cause** must be shown with **credible, cogent, and convincing evidence**.
- Mere **illness claims, lawyer's negligence**, or **routine excuses** are **insufficient** without strong corroborative proof.

This aligns with the Court's previous stance in *D. Gopala Krishna v. Sriramulu* [(2021) 2 SCC 179], where it was held that litigants seeking recall must meet a **strict standard of proof**. The insistence on documentary support, credible medical evidence, and due diligence ensures that the recall mechanism under Order IX Rule 13 is not abused to unduly prolong litigation or



harass decree-holders.

#### 4. Promoting Judicial Restraint and Discipline

The judgment also reasserts the value of **judicial restraint**.

The High Court's casual interference, despite **concurrent factual findings** by two lower courts, was a clear violation of the principle that higher courts must exercise **utmost caution** when disturbing such findings. The Supreme Court's correction of this error serves as a timely reminder that **discipline, respect for lower court decisions, and adherence to jurisdictional limits are the backbone of judicial efficiency and credibility**.

This message is particularly important in an era where judicial backlog and delayed justice are systemic concerns.

By discouraging frivolous writ petitions and belated challenges to final orders, the Court encourages **finality in litigation** — a core aspect of the rule of law.

#### 5. Broader Impact and Future Implications

The implications of this judgment are profound.

It not only **preserves the finality of decrees** and **discourages negligent conduct** but also **rebalances the judicial workload** by limiting unwarranted interference at the supervisory level.

Litigants and lawyers alike are placed on notice: **Vigilance, procedural compliance, and respect for judicial timelines are non-negotiable**. Simultaneously, subordinate courts are emboldened to function without fear of unjustified supervisory correction, provided their actions are within legal bounds.

Ultimately, the judgment strengthens **judicial efficiency, procedural integrity, and institutional respect**, all of which are essential for a healthy, functioning democracy.

### Case Laws

#### 1. Surya Dev Rai v. Ram Chander Rai

**Citation:** (2003) 6 SCC 675

Facts:

- The appellant filed a civil suit which was dismissed by the trial court.
- He appealed, and his appeal was dismissed by the first appellate court.

- Instead of filing a second appeal under Section 100 CPC, the appellant filed a writ petition under Articles 226/227 in the High Court, challenging the dismissal.
- The High Court dismissed the writ petition, leading to the appeal before the Supreme Court.

Issues:

- Whether a writ petition under Article 226/227 is maintainable to challenge judicial orders of civil courts?
- What is the true scope of Article 227 jurisdiction?

Arguments:

**Appellant:**

- Urged that the High Court, under Article 227, has the power of superintendence over subordinate courts.
- Argued that gross injustice had been caused which warranted High Court interference.

**Respondent:**

- Contended that supervisory jurisdiction is limited to procedural errors or jurisdictional errors.
- Emphasized that appellate review of evidence was impermissible under Article 227.

Judgment:

- The Supreme Court held that judicial orders of civil courts are not amenable to a writ under Article 226.
- Article 227 confers supervisory jurisdiction, but it cannot be used to correct mere errors of fact or law; it is limited to ensuring courts act within jurisdiction.
- **Key Point:** *Supervisory jurisdiction is distinct from appellate jurisdiction.*
- The Court carved out limited grounds when supervisory jurisdiction can be invoked: (i) jurisdictional error, (ii) breach of natural justice, (iii) perversity.

2. Shalini Shyam Shetty v. Rajendra Shankar Patil

**Citation:** (2010) 8 SCC 329

Facts:

- A landlord-tenant dispute arose wherein the tenant challenged eviction orders through writ petitions under Article 227.
- The High Court entertained the petition and set aside the eviction orders, leading the landlord to appeal before the Supreme Court.

Issues:

- Whether High Courts should interfere with concurrent findings of fact under Article 227?
- How should Article 227 jurisdiction be exercised concerning landlord-tenant cases?

Arguments:

**Appellant (Landlord):**

- Argued that the tenant had no right to invoke supervisory jurisdiction just to overturn findings of fact.
- Stressed that Article 227 must be used sparingly, not as a second appellate mechanism.

**Respondent (Tenant):**

- Claimed substantial injustice would be caused if the High Court did not intervene.
- Alleged errors in factual appreciation by the lower courts.

Judgment:

- The Supreme Court held that the High Court's jurisdiction under Article 227 is **neither original nor appellate**.
- It reiterated that findings of fact should not be disturbed unless there is **perversity, grave injustice, or jurisdictional error**.
- **Key Point:**  
*Supervisory jurisdiction should not be exercised routinely merely because another view is possible.*
- The Court allowed the landlord's appeal, restoring the eviction orders.

3. D. Gopala Krishna v. Sriramulu

**Citation:** (2021) 2 SCC 179

Facts:

- The appellant suffered an ex parte decree as he failed to appear in the suit proceedings.
- He filed an application under Order IX Rule 13 CPC for setting aside the decree, citing illness and lack of knowledge about the proceedings.
- Both the trial court and appellate court dismissed the application. The appellant approached the Supreme Court.

Issues:

- What constitutes "sufficient cause" under Order IX Rule 13 CPC?
- How strictly should courts scrutinize reasons for non-appearance?

Arguments:

**Appellant:**

- Claimed unavoidable circumstances (illness) prevented appearance.
- Sought liberal interpretation of "sufficient cause" in the interest of justice.

**Respondent:**

- Highlighted that the appellant had shown a pattern of negligence.
- Emphasized that mere assertion of illness without credible evidence is insufficient.

Judgment:

- The Supreme Court dismissed the appeal, holding that **mere bald statements of illness are insufficient** to constitute sufficient cause.
- It reiterated that the burden is on the applicant to **prove sufficient cause** with credible evidence like affidavits, medical records, and examination of witnesses.
- **Key Point:**
- *Courts must balance fairness to defendants with finality and certainty in litigation.*
- Relief under Order IX Rule 13 is discretionary and cannot be granted lightly without convincing proof.

**Conclusion**

The Supreme Court's judgment in *Kanchhu vs. Prakash Chand & Ors.* serves as a textbook example of correcting judicial overreach and restoring procedural fairness. By overturning the High Court's excessive interference, the Court reaffirmed that supervisory jurisdiction under Article 227 must be exercised with caution, strictly confined to rectifying jurisdictional or procedural errors.

The ruling highlighted that setting aside ex parte decrees demands credible and cogent proof of "sufficient cause," and that negligence or casual excuses cannot substitute for due diligence. Respect for concurrent findings of fact and maintaining judicial discipline were central to the Court's approach.

Importantly, the judgment addresses broader policy concerns by preventing the misuse of the judicial process through endless re-litigation and unnecessary delays. It strikes a careful balance between fairness to litigants and the integrity and efficiency of the judicial system.



In essence, Kanchhu sets a significant precedent, reinforcing that justice is best served when courts uphold procedural rigour, respect hierarchy, and ensure that judicial remedies are not abused under the guise of fairness.

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