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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR-5089-2025(O&amp;M)

Date of decision :07.08.2025

M/s ERS Courier Service Pvt. Ltd.

...Petitioner

Versus

Surender

...Respondent

**CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Gourave Bhayyia Gilhotra, Advocate and  
Mr. Hitesh Verma, Advocate,  
for the petitioner.

**HARPREET KAUR JEEWAN, J. (Oral)**

1. Present civil revision is filed impugning the order dated 19.07.2025 (Annexure P-1) passed by the Executing Court i.e. Civil Judge (Junior Division), Gurugram, dismissing the application filed by the petitioner-Judgment Debtor (*for short, 'the JD'*) under Order XXI Rule 26 of the Code of Civil Procedure, 1908 (*hereinafter referred to as 'the CPC'*).

2. As per the brief facts, the Industrial Tribunal-cum-Labour Court-II, Gurugram (*for short, the 'Tribunal'*) passed an *ex parte* Award dated 15.11.2021 (Annexure P-2) in favour of the respondent-decree holder. The petitioner filed an application (Annexure P-7) before the Tribunal under Order XXI Rule 26 CPC for setting aside the *ex parte* Award. Another application under Order XXXIX Rules 1 & 2 CPC was filed by the petitioner before the Tribunal, seeking stay of the execution of the aforesaid *ex parte* Award. The execution proceedings were initiated by the respondent/decree-holder before the Civil Court.

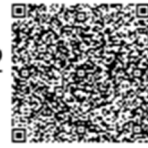


The Tribunal by passing the order dated 07.02.2024 (Annexure P-6), dismissed the said application under Order XXXIX Rules 1 & 2 CPC, by observing that the execution proceedings are pending before the Civil Judge, and the execution proceedings are beyond the jurisdiction of the Tribunal. It was also observed that the proceedings in the execution petition pending before the Civil Judge are not “incidental and ancillary powers” vested in the Labour Court.

3. Learned counsel for the petitioner submitted that thereafter, the petitioner-JD approached the Civil Judge, Gurugram under Order XXI Rule 26 CPC for a reasonable time to execute the award, i.e. till the disposal of the application pending before the Tribunal for setting aside the *ex parte* award. The said application has been dismissed by observing that in case the *ex parte* judgment and decree is set-aside, the petitioner would have the remedy under Section 144 CPC for restitution and even interest, damages, compensation, etc. can also be awarded. It is submitted that the approach of the Executing Court is erroneous, and it would lead to multiplicity of litigation.

4. I have considered the aforesaid submissions and perused the paper-book.

5. The undisputed facts are that there was a labour dispute *inter se* the petitioner-employer and the respondent-workman. The respondent issued demand notice and filed a claim petition in which the petitioner was proceeded against *ex parte* vide order dated 15.11.2021. On the basis of the *ex parte* evidence, the award was passed in favour of the respondent and it was held that the respondent-workman is entitled to “reinstatement in services with continuity of service with 50% back-wages from the date of his termination i.e. 20.10.2015 till his



reinstatement in job with all consequential benefits”. It is also not disputed that the application under Order XXI Rule 26 CPC for setting aside the *ex parte* award is still pending before the Tribunal and the Executing Court has started proceeding in the execution petition.

6. Learned counsel for the petitioner submitted that pending his application under Order XXI Rule 26 CPC, he is ready to deposit 50% of the awarded amount and has no objection if the said amount is disbursed to the respondent, subject to an undertaking that the said payment would be subject to the outcome of the application under Order XXI Rule 26 CPC pending before the Tribunal.

7. Keeping in view the nature of litigation and to avoid multiplicity of litigation, issuance of notice to the respondent is dispensed with.

8. Keeping in view the facts and circumstances, the impugned order passed by the Executing Court dated 19.07.2025 is set aside, subject to the condition that 50% of the awarded amount is deposited by the petitioner-JD before the Executing Court within 30 days from the date of this order. In that eventuality, the Executing Court shall adjourn the execution proceedings *sine die* and the same can be revived after the conclusion of the proceeding in the application under Order XXI Rule 26 CPC by the Tribunal. However, it is made clear that in case 50% of the awarded amount is not deposited, the Executing Court shall be at liberty to proceed further in the matter, as per law. The amount, if any deposited by the petitioner-JD, shall be disbursed to the respondent, which shall be subject to final decision by the Tribunal in the controversy *inter se* the parties.

9. Accordingly, present revision petition is disposed of.



10. Since this order has been passed without issuance of notice to the respondent, the respondent shall have the right to seek recalling of this order, if so advised.

11. Pending miscellaneous application(s), if any, shall also stand disposed of.

**07.08.2025**

*atulsethi*

**[HARPREET KAUR JEEWAN]**

**JUDGE**

Whether speaking / reasoned :

Yes

No

Whether Reportable :

Yes

No