

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****116****CR-5102-2025(O&M)****Date of decision: 05.08.2025****Rani****...Petitioner(s)****Vs.****Kabal Singh and another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

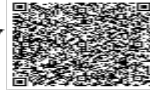
Present:- Mr. Dinesh Nagar, Advocate for the petitioner.

Mr. Mitul Singh Rana, Advocate
for respondent No.1/caveator.

NIDHI GUPTA, J.

Present Civil Revision Petition under Article 227 of the Constitution of India has been filed by defendant No.1 for setting aside the impugned order dated 22.07.2025 (Annexure P-8) passed by learned Additional District Judge, Hoshiarpur; whereby application filed by the petitioner under Section 151 CPC seeking stay of the Execution proceedings, has been dismissed.

2. It is *inter alia* submitted by learned counsel for the petitioner that the learned Court below was in error in dismissing the application of the petitioner as it failed to appreciate that the appeal against the dismissal of the application of the petitioner under Order 9 Rule 13 CPC, was pending.



3. It is submitted that in view of the pendency of the appeal, it was necessary in the interest of justice that further execution proceedings be stayed. It is stated that the learned Additional Sessions Judge, Hoshiarpur failed to appreciate that great harm and loss is liable to be caused to the petitioner in case further proceedings are not stayed. Learned counsel submits that the application for stay of execution proceedings was filed along with the appeal. However, the Id. Court below is not hearing the application. He further submits that once previous counsel for the petitioner had pleaded no instructions, petitioner could not have been proceeded against ex parte.

4. It is accordingly prayed that the impugned order be set aside and application of the petitioner for stay of execution of impugned judgment and decree dated 16.02.2018, be allowed.

5. *Per contra*, learned counsel for respondent No.1/decree holder appearing on caveat vehemently opposes prayer made on behalf of the petitioner and submits that there is no infirmity in the impugned order. It is submitted that the impugned order is culmination of long litigation in which respondent has been unable to enjoy fruits of decree dated 16.02.2018 due to misuse of the legal process by the petitioner. He, accordingly, prays for dismissal of the present Revision Petition.

6. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find no merit whatsoever in the submissions made on behalf of the petitioner.



7. Given the long history of this litigation, it will be useful to see the sequence of events in chronological order as follows:

18-02-2013: An Agreement to Sell was entered into between the respondent/Plaintiff and petitioner/Defendant, for a property in Hoshiarpur.

01-05-2014: The respondent No.1/plaintiff had filed a Civil Suit No. 426 dated 01.05.2014 for possession by way of specific performance of said Agreement to Sell dated 18.02.2013; or in the alternative for recovery of Rs.13,50,000/.

26-05-2014: In the said suit, the petitioner had put in appearance through her counsel on dated 26.05.2014.

29-10-2014: On 29.10.2014, counsel for the petitioner pleaded 'no instructions'; and accordingly, she was proceeded against ex parte.

17-08-2017: Thereafter the petitioner had filed an application dated 17.08.2017 for setting aside the exparte order dated 29.10.2014.

16-11-2017: The said application of the petitioner was dismissed by the learned trial Court vide order dated 16.11.2017.

16-02-2018: Thereafter, suit of the plaintiff was decreed ex-parte by the learned Civil Judge, Junior Division, Hoshiarpur vide judgment and decree dated 16.02.2018 (Annexure P-1).

25-10-2021: As per the petitioner, she had received summons of the execution petition in October 2021, whereupon she filed an application dated 25.10.2021 (Annexure P-2) under Order 9 Rule 13 CPC to set aside the exparte decree.



12-12-2022: The said application of the petitioner was dismissed by the learned Civil Judge, Junior Division, Hoshiarpur vide impugned order dated 12.12.2022 (Annexure P-4).

05-01-2023: Against the same, the petitioner had filed an appeal dated 05.01.2023 along with application seeking stay of the execution proceedings (Annexure P-5). The said appeal and the application are still pending.

22.7.2025: The petitioner then filed a present application dated 22.07.2025 (Annexure P-6) under Section 151 CPC to conduct the hearing and to pass appropriate order on the stay application.

22.7.2025: Vide impugned order dated 22.07.2025 (Annexure P-8), the said application of the petitioner has been dismissed.

8. The above facts reveal the casual and careless attitude adopted by the petitioner in the pursuit of the present litigation. It is to be appreciated that over a period of time, rights of the parties get crystallized. In the present case, despite having a decree dated 16.02.2018 in his favour, the plaintiff/decreed holder is unable to enjoy the fruits of the decree.

9. Admittedly, execution is pending and warrants of possession have been issued against the petitioner after getting Sale Deed executed and registered through the Court and even mutation has been sanctioned. In this circumstance, mere pendency of the appeal against dismissal of application under Order 9 Rule 13 CPC would constitute no ground to stay the execution proceedings.



10. It has been submitted by learned counsel for the petitioner that the Court below is not hearing the stay application of the petitioner. However, a perusal of the impugned order dated 22.07.2025 (Annexure P-8) shows that while adjourning the matter for 30.07.2025, the Id. Court had called upon the petitioner to address final arguments. It has not been denied by the petitioner that even on 30.07.2025, the petitioner had failed to address formal arguments on the main appeal; and accordingly, the matter now stands adjourned to 22.08.2025. No reason has been given by the petitioner for insisting on hearing of the stay application and for not addressing arguments in the main appeal itself.

11. In view of the above, no ground is made out to interfere in the impugned order.

12. The present Civil Revision Petition is accordingly **dismissed**.

13. Pending application, if any, stands disposed of.

05.08.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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