



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

(118)

CR-5439-2025Date of Decision:-**13.08.2025**

RAGHBIR SINGH

... Petitioner

Versus

SURENDER KUMAR ALIAS KALU RAM

... Respondent

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Sanjiv Kumar Aggarwal, Advocate for
Mr. Ojas Bansal, Advocate
for the petitioner.

VIRINDER AGGARWAL, J. (Oral)

1. The present petition has been filed by the petitioner under Article 227 of the Constitution of India, assailing the order dated 28.07.2025 (Annexure P-1) passed by the learned Executing Court in the execution proceedings. By way of the said order, the Executing Court dismissed the petitioner's application dated 15.07.2025 (Annexure P-6), which sought a stay on the execution of the judgment and decree dated 20.05.2025, during the pendency of the appeal preferred by the petitioner against the said judgment and decree. The petitioner contends that the application was wrongly rejected despite the fact that the appeal is pending adjudication and raises arguable issues.

2. The petitioner alleges that application dated 20.06.2025 (Annexure P-5) along with appeal was preferred before the learned Appellate Court for staying the executing proceedings. The learned



Appellate Court refused to decide the stay application despite repeated requests. The petitioner filed application dated 16.07.2025 bearing 1A-01 of 2025 for taking up the appeal file at an early date and for deciding the stay application. The Appellate Court vide order dated 18.07.2025 (Annexure P-8) refused to decide that stay application and insisted upon hearing of final argument on the main appeal and the appeal was fixed for final arguments vide order dated 18.07.2025 and now stands adjourned to 11.08.2025.

3. The Executing Court has failed to consider the Order 21 Rule 26 of Code of Civil Procedure (in short 'CPC') as it casts a duty upon an Executing Court sized of executing a decree to stay the execution on sufficient cause being shown by the judgment debtor. In the present case also, the petitioner has shown sufficient cause to stay the execution which was wrongly declined and the learned counsel has submitted that impugned order be set aside and execution of the decree under appeal be stayed.

4. A perusal of the impugned order demonstrates that the learned Executing Court was fully cognizant of the provisions of Order 21 Rule 26 of CPC and has expressly referred to and applied the same in the concluding paragraph of the impugned order, which reads as under:-

“Order 21 Rule 26 provides warrants Executing Court to stay the execution only to provide reasonable time to judgment debtor to file an appeal to Superior Court. In the present case, JD has already filed an appeal in the Court of learned Additional District Judge, Sirsa. Accordingly, the application moved by applicant is devoid of merits. Therefore, the application for staying the proceedings of the execution petition during the pendency of the appeal stands dismissed. With due respect, the gist of authorities on the point of readiness and willingness and capacity relied



upon by Ld. counsel for JD is not disputed, but same are not applicable to present facts and circumstances. Now, the case is adjourned to 30.07.2025 for further proceedings.”

4. Order 21 Rule 26 CPC reads as under:-

Order 21 Rule 26 of the CPC deals with the stay of execution of a decree by the executing court. It allows the executing court to temporarily halt the enforcement of a decree, giving the judgment-debtor time to approach the court that passed the decree, or an appellate court, to seek a stay of execution or other relevant orders.

5. The learned Executing Court has rightly observed that now the appeal of the petitioner is pending before the appellate Court and it is for the Appellate Court to grant stay of execution of the decree and the Executing Court has to stay the decree till the appeal is filed. Now since the matter is under consideration of the Appellate Court and the Appellate Court has not decided the stay application, much prejudiced has been caused to the petitioner from the orders of the Appellate Court. The impugned order does not suffer from any material illegality, but in such like situation a Co-ordinate Bench of this Court in “***Kashmira Singh vs. M/s Mohinder Singh Kahlon & Sons, 2024(1) CivCC 287***” has held in para No.8 that “*in order to meet ends of justice, execution proceedings before the Executing Courts are required to be stayed*”, para No.8 of the aforesaid judgment reads as under:-

“Although, present revision petition is not against the refusal of the Appellate Authority to grant stay yet in the facts and circumstances of the case, I am of the considered view that ends of justice would be met, in case, stay of the execution proceedings before the learned Civil Judge (Junior Division), Samrala is granted till the decision of the appeal, which is stated



to be pending for final arguments for 11.04.2023. Accordingly, in the light of the position noted above and without issuing notice to the respondent, as issuance of summons would unnecessarily delay the matter and no useful or practical purpose would be served thereby, the impugned order is set aside and the instant petition is disposed of by granting stay of the execution proceedings pending before the learned Civil Judge (Junior Division), Samrala for 28.03.2023, till the decision of Civil Appeal No.432 of 2019 (Annexure P-2) by the learned Addl. District Judge, Ludhiana against judgment and decree dated 19.03.2019 (Annexure P-1) passed by the learned Civil Judge (Junior Division), Samrala in **Civil Suit No.52 of 2016 in case titled as 'M/s Mohinder Singh Kahlon and sons versus Kashmira Singh'**, while directing the learned Addl. District Judge, Ludhiana, to hear arguments in the appeal, which is stated to be pending for said purpose on 11.04.2023 and to take a decision in respect thereto in accordance with law.”

6. Now considering the decision of Co-ordinate Bench of this Court, revision petition of the petitioner is allowed and the execution of the decree is stayed for a period of “**two months**” from the passing of this order, so that the Appellate Court can decide the application for stay of execution proceedings during that period. Appellate Court is directed to dispose of the stay application or final appeal, within a period of 2 months from the passing of this order.

7. In the light of aforementioned observations, the revision petition stands disposed of accordingly.

(**VIRINDER AGGARWAL**)
JUDGE

13.08.2025
Gaurav Sorot

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No