



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

142

CR-6242-2025

Date of Decision: 23.09.2025

Inderjit Singh Gill through his LRs

.....Petitioner

Vs.

Harminder Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Ms. Armaan Saggar, Advocate
for the petitioner.

Mr. Gagandeep Singh Virk, Advocate
for the respondent.

SUDEEPTI SHARMA J. (Oral)

1. The challenge in the present civil revision is to order dated 01.08.2025, passed by learned Executing Court in execution petition EXE-62-2025, whereby, the objections filed by the petitioner have been dismissed.

BRIEF FACTS

2. The brief facts of the case are that respondent filed civil suit for recovery of Rs.4,03,750/- alongwith interest @1.50% per month from 22.06.2020 till the realization of the entire amount. The same was decreed on 23.02.2021 in favour of the respondent.

3. On 01.09.2022, respondent filed execution of the judgment and decree dated 23.02.2021 by way of attachment and sale of property of petitioner. In the execution, objection were raised by the petitioner by stating therein that respondent is a partner in the firm-M/s Jai Singh and Company and the petitioner used to sell his crops through respondent-firm since 2016.



And after passing of judgment and decree dated 23.02.2021 he sold his crops to commission agent firm of the respondent. And further stated that the amount to the tune of Rs.3,76,320/- is due from the decree holder, therefore, the same amount be adjusted by decree holder towards decretal amount and the remaining amount of Rs.27,430/- was paid in cash to respondent-decree holder. The respondent filed reply to the objections by stating therein that though petitioners sold paddy crop worth Rs.2,94,000/- through his firm but he never issued any J-form to petitioner and the document produced by the petitioner are forged and fabricated.

4. After hearing both the parties, learned Civil Judge (Jr. Division) Jagraon vide its order dated 01.08.2025 dismissed the application moved by the petitioner. Hence, the present revision petition.

CONTENTIONS

5. Learned counsel for the petitioner contends that the amount which is already paid to the respondent has to be deposited and the objections filed by the petitioner are wrongly dismissed by learned Executing Court.

6. She further submits that learned Executing Court, by relying on Order XXI Rule 2 CPC has dismissed the objections without taking into consideration the very fact that Rule 2(3) was omitted by Section 36 of Punjab Relief of Indebtedness Act and the certification is not required.

7. Learned counsel for the petitioner placed reliance upon ***Devinder Kumar Vs. S. Chandan 1994 (1) R.R.R. 635***, passed by this Court.



8. She, therefore, prays that present civil revision petition be allowed and order dated 01.08.2025 be set aside.

9. Per contra learned counsel for the respondent contends that in the reply filed by the respondent to the objections, a categorical stand is taken regarding the adjustment of the amount mentioned by the petitioner in the objections and stated that respondent is only a partner of the firm-M/s Jai Singh and Company and payment made to the Company cannot be adjusted against the personal decree.

10. I have heard learned counsel for the parties and perused the whole file with their able assistance.

11. A perusal of the file shows that respondent has categorically, in his written statement denied the factum of receipt of any amount of money by him, therefore, there is no question of adjustment of the amount of money allegedly paid by the petitioner to the respondent. Further, in the impugned order as well, the same is observed by learned Civil Judge (Jr. Division) Jagraon.

12. Now coming to ***Devinder Kumar's case (supra)*** on which the reliance has been placed by learned counsel for the petitioner, relevant portion of which is reproduced as under:-

“The above-mentioned rule provides the mode and the manner in which the executing Court is required to record payment or adjustment made outside the Court. Sub-rule (1) contemplates certification by the decree-holder and recording by the Court of the payment or adjustment; Sub-rule (2) contemplates application by the judgment-debtor and also notice to the decree-holder to show cause as to why such



payment or adjustment be not recorded as certified. On failure of the decree-holder to show-cause, the Court is to record certification. Thus, recording of payment or adjustment has to be made under sub-rules (1) and (2). Sub-rule (2-A) which was inserted by amendment Act of 1976, prevents the Court from recording of any payment or adjustment which has not been made as provided under this sub-rule. Thus, if a payment or adjustment arrived at outside the Court is not certified by the decree-holder or an application is not made by the judgment-debtor, then under sub-rule (3), such payment or adjustment cannot be pleaded as defence in execution of the decree because such payment cannot be recognised by the Court. However, in the State of Punjab, by virtue of Section 36 of the Punjab Relief of Indebtedness Act, 1934, sub-rule (3) has been omitted. The consequence of omission of sub-rule (3) was considered by this Court in a judgment reported as Bholu Ram and others v. Kanhya s/o Mard and others, AIR 1963 Punjab and Haryana 133, in which it was held that "in view of sub-rule (3) of Rule 2 Order 21, if payment out of Court is not certified by the decree-holder nor any application is made by the judgment-debtor under sub-rule (2) within 90 days as provided in Article 174 of the Limitation Act, such payment cannot be pleaded as a defence in execution of decree, because such payment cannot be recognised by the Court. In the State of Punjab, however, by virtue of Section 36 of the Punjab Relief of Indebtedness Act, 1934, sub-rule (3) of this rule has been repealed. The result, therefore, is that irrespective of the fact whether a payment or adjustment has been certified either at the instance of the decree-holder under sub-rule (1) or within 90 days of the adjustment at the instance of the judgment-debtor under sub-rule (2), such payment can be pleaded as a defence if the decree-holder takes out an execution of the decree". Thus, as a result of omission of sub-rule (3) of Rule 2 Order 21 of the Civil Procedure Code, in execution filed by the decree-holder, the



judgment-debtor notwithstanding that he did not move the Court under sub-rule (2) for the adjustment being certified or did not make payment or got the decree adjusted in the manner provided under sub-rule (2- A), is entitled to take up the plea that execution should not be allowed because of payment or adjustment. In this view of the matter, the contention of Mr. Sibal that payment outside Court cannot be recognised, cannot be accepted. As regards the second contention of Mr. Sibal, suffice it to say, the executing Court has on appreciation of the oral evidence, found that the decree stands satisfied on account of payment outside Court, and this being a pure finding of fact, it is not open for this Court sitting in revision to take a contrary view from the one taken by the executing Court.”

13. The above referred to judgment would not be applicable in the case of petitioner, since, the receipts placed on record by the petitioner with the present petition as well as before the learned Civil Judge (Jr. Division) Jagraon, shows that the receipts are of the payment to the Company and not to the respondent, which cannot be considered for adjusting the amount in satisfaction of the decree in favour of the petitioner in personal capacity. Further, learned counsel for the respondent has categorically denied any payment received by him in personal capacity which can be adjusted in satisfaction of decree dated 23.02.2021.

14. Further, a perusal of the order dated 01.08.2025, passed by learned Civil Judge (Jr. Division) Jagraon, shows that it is well-reasoned speaking order which does not require any interference by this Court.



15. Consequently, the present civil revision petition is ***dismissed***.
16. Pending application(s), if any, are also disposed of.

23.09.2025

Sahil

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No