



CR No. 567 of 2023

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

CR-567-2023 (O&amp;M)

Decided on : 30.09.2025

Tarsem Lal (since deceased) through his LRs

.....Petitioners

Versus

Gurdial Chand

.....Respondent

**CORAM : HON'BLE MR. JUSTICE DEEPAK GUPTA****Present:** Mr. Chetan Bansal, Advocate,  
for the applicant-petitioners.Mr. Satbir Rathore, Advocate  
For the respondent.**DEEPAK GUPTA, J.****CM-11479-CII of 2025 IN CR 567-2025**

This is an application filed under Order IX Rule 9 read with Section 151 CPC for restoration of the main case i.e. CR No. 567 of 2023, which was dismissed in default for want of prosecution by this Court on 27.05.2025.

2. Learned counsel for the respondent/ non-applicant has no serious objection to allow the application but he prays to dispose of the main petition also.

3. This request of counsel for the respondent is not opposed by counsel for the applicant-petitioner. As such, for the reasons as mentioned in the application, the order dated 27.05.2025, whereby the main petition was dismissed in default for want of prosecution, is hereby recalled. C.R No. 567 of 2023 is hereby restored. It be registered at its original number.

4. Application stands disposed of.

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5. Counsel for both the parties have been heard.

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6. By way of this revision, petitioner has assailed the order dated 09.01.2023 (Annexure P-1) passed by learned Civil Judge (Jr. Divn.), Dasuya, whereby his application for recalling the warrants of possession was declined.

7. In the civil suit filed by plaintiff Gurdial Chand (respondent herein), decree for possession of the suit property measuring 4 marlas shown in red colour in the site plan was passed against the defendant Tarsem Lal through his LRs (petitioners herein) vide judgment and decree dated 09.09.2019 by learned Civil Judge (Jr. Divn.), Dasuya. Appeal against the said judgment and decree was filed by the defendant of the case i.e. petitioner herein on 16.07.2022 i.e. after a period of more than 2 years and 10 months from the date of passing of the decree. Along with appeal, he also moved an application for staying the execution. That appeal is stated to be still pending.

8. In the meantime, the plaintiff-decree holder of the case i.e. respondent herein filed an execution for implementation of the decree dated 09.09.2019, wherein the judgment debtor i.e. petitioner prayed for staying the execution proceedings on the ground of pendency of the appeal. The Executing Court, by way of impugned order, declined the said request.

9. Assailing the impugned order, it is contended by learned counsel that valuable rights of the petitioner are involved in the matter, as petitioners had built the house in question by spending huge amount and that his appeal is still pending, in which issues on his application for condonation of delay were framed and, therefore, during pendency of the appeal, the execution proceedings deserve to be stayed.

10. Strongly opposing the petition, it is urged by learned counsel for respondent-plaintiff-decree holder that appeal was filed by the petitioner after more than 02 years and 10 months from the date of passing of the decree for possession by the trial Court. Even before the first

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Appellate Court, the matter is being delayed, as issues were framed by the Appellate Court on 13.12.2024 on the application for condonation of delay and right from 13.12.2024 and till date, as many as 10 opportunities have been availed by the applicant-petitioner to produce the evidence, but he has failed to conclude the same, which further shows his conduct for delaying the matter.

11. Having considered submissions of both the sides, this Court does not find any merit in the petition.

12. No doubt that against judgment and decree dated 09.09.2019, the petitioner herein i.e. defendant of the case went in appeal, which is still pending. However, the appeal was filed after more than 02 years and 10 months. Not only this, when the Appellate Court framed issues on the application for condonation of delay on 13.12.2024, the petitioner herein is delaying the matter, apparently in a deliberate manner, as till now he has availed 10 opportunities, as borne out from the various zimni orders passed by the Executing Court, copies of which have been produced by counsel for the respondent, but has failed to conclude the evidence.

13. Having regard to the aforesaid conduct of the petitioner and circumstances referred above, this Court is not inclined to accept the request of the petitioner so as to stay the operation of the warrants of possession as issued by the Executing Court by setting aside the impugned order. This Court does not find any perversity or illegality in the impugned order and as such, the present petition is hereby dismissed.

**(DEEPAK GUPTA)**  
**JUDGE**

**30.09.2025**

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