



CR No. 6370 of 2025

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-6370-2025 (O&M)
Decided on : 11.09.2025

Mahinder Kaur @ Mohinder Kaur

.....Petitioner

Versus

Baljeet Kaur & Anr.

.....Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. G.S. Virk, Advocate,
for the petitioner.DEEPAK GUPTA, J.

The petitioner is aggrieved by the order dated 29.05.2025 (Annexure P-4) passed by the learned Civil Judge (Jr. Divn.), Ludhiana in Execution Case No. EXE-16 of 2021 titled *Baljeet Kaur v. Darbara Singh & Anr.*, whereby warrants of possession in respect of the suit property were ordered to be issued. The petitioner prays for recall of the warrants and acceptance of the objections filed by her in execution.

2. The contesting respondent / decree-holder Smt. Baljeet Kaur filed a suit for possession against defendant Darbara Singh (proforma respondent) and his wife (the present petitioner). Both defendants were represented by counsel throughout the trial. After contest, the suit was decreed on 25.07.2014 vide judgment Annexure P-1. The petitioner concedes that the appeal preferred against the said judgment was dismissed, albeit in default, and therefore the judgment and decree dated 25.07.2014 have attained finality.

3. The decree-holder instituted execution proceedings for delivery of possession and during those proceedings, the petitioner filed objections asserting that a residence order under Section 19 of the Protection of Women from Domestic Violence Act, 2005 (the "DV Act") had

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been passed in her favour by the Judicial Magistrate 1st Class, Ludhiana, and that in view thereof, the warrants of possession should not be issued.

4. Learned counsel for the petitioner contends that the Executing Court erred in issuing warrants of possession without considering her objections based on the residence order under Section 19 of the DV Act and that the warrants are therefore liable to be recalled.

5. Heard.

6. Residence orders under Section 19 of DV Act empowers a Magistrate, on being satisfied that domestic violence has occurred, to pass directions including restraining the respondent from dispossessing or disturbing the aggrieved person's possession of the shared household, or directing removal of the respondent, or securing alternate accommodation, etc. At the same time, where a decree is for delivery of immovable property, the executing court is empowered to take steps for delivery of possession and to issue warrants, affix copy of warrant and make proclamation, or otherwise proceed in accordance with Order XXI CPC as the law of Execution provides for a summary and effective remedy for enforcement of decrees.

7. The pendency of proceedings under the DV Act or an interim/final residence order passed thereunder, cannot be an embargo for initiating or continuing civil proceedings in relation to the same subject-matter. Such orders are relevant and must be considered by the civil court as evidence, but they do not automatically bar the civil court from adjudicating civil rights or carrying forward execution of a decree, which is otherwise maintainable and final. The civil court must determine issues in this regard.

8. In present case, the decree for delivery of the house was passed on 25.07.2014 and has attained finality. Final decrees carry a strong presumption in favour of the decree-holder and execution is the recognized

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remedy to enforce such decree. The petition under the DV Act relied upon by the petitioner was filed in 2017, i.e. after the decree of 2014 had been passed.

9. On the face of the record, it appears that the DV petition was filed subsequent to the decree and is being invoked in execution proceedings in order to resist implementation of a prior final decree. When a later-in-time application is used primarily to obstruct execution of a subsisting decree, the Executing Court is entitled to guard against such procedural obstructions and to proceed with execution after considering the objections on their merits. Even assuming a residence order exists, the legal position is that a residence order under Section 19 is relevant material to be considered by the civil/executing court but it does not ipso facto nullify or put a bar on the execution of a prior decree. The executing court must examine the DV order and the evidence on record. If the DV order establishes a lawful right of the aggrieved person that would defeat the decree-holder's entitlement to possession, the executing court can act accordingly but that requires proof and adjudication, not automatic suspension of execution.

10. Still further, objections in execution are maintainable, if they establish an independent substantive right of the objector or show some legal bar to execution; mere pendency of a DV petition or an unproved/contradicted residence claim cannot, furthermore, operate as a stay of execution. The executing court's duty is to decide objections promptly and, where necessary, to test the claim by requiring production of orders/ evidence and by affording reasonable opportunity of hearing. If the objections are prima facie frivolous or filed for delay, the court may proceed to issue warrants and enforce the decree in accordance with law.

11. In the instant case, the decree is final and the petitioner's DV petition was filed later in time (2017). The record shows the decree-holder invoked execution and the executing court has exercised its jurisdiction



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under Order XXI to issue warrants of possession. There is nothing on the face of the impugned order to indicate that the executing court acted arbitrarily or without applying its mind to the petitioner's objections. Given the settled legal position that a residence order does not automatically preclude civil execution, though is only relevant evidence, and having regard to the chronology and object of the petitioner's filings, no interference is warranted.

12. In the facts and circumstances, notably the finality of the 2014 decree, the subsequent lodging of a DV petition in 2017, which appears to have been relied upon to obstruct execution, and the well-settled law that DV residence orders are relevant but do not operate as an embargo on civil execution, this Court does not find any illegality in the impugned order dated 29.05.2025, whereby warrants of possession were ordered to be issued.

13. Consequently, the revision petition is dismissed. No interference is called for with the executing court's direction to issue warrants of possession. The executing court shall, however, ensure that the petitioner's objections (if bona fide) are considered on the record and that any orders made in execution, fully comply with the statutory safeguards. If there is any subsisting and substantiated residence order passed under Section 19 of the DV Act, the executing court shall take the same into account as evidence while proceeding with execution; but such consideration does not automatically stay or nullify a prior final decree unless the executing court, after adjudication, records reasons to that effect.

(DEEPAK GUPTA)
JUDGE

11.09.2025

Jiten

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