



CR No. 6761 of 2025 (O&M) -1-

120 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 6761 of 2025 (O&M)
DATE OF DECISION: 24.09.2025

BIJENDER (DECEASED) THROUGH LEGAL REPRESENTATIVE
RENU

.....PETITIONER

Vs.

RAM MEHAR (DECEASED) THROUGH LEGAL
REPRESENTATIVES AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Sumeet Jain, Advocate,
for the petitioner.

AMARINDER SINGH GREWAL, J.

1. Prayer in the present Civil Revision Petition, filed under Article 227 of the Constitution of India, is for setting aside the impugned order dated 03.09.2025 (Annexure P-1), passed by the learned Civil Judge (Junior Division), Sohna, in Execution Petition No. EXE/37/2023 titled as *Ram Mehar vs. Bijender and others*, whereby the learned Civil Judge (Junior Division), Sohna, District Gurugram, directed the petitioner-judgment debtor to lead evidence first, despite the fact that the witnesses had already been summoned in respect of the respondent-decree holder's evidence. A further prayer has also been made for staying the execution



proceedings.

2. For the sake of convenience, the parties shall be referred to in terms of their respective positions before the trial Court.

3. Brief facts of the case are that the respondent-plaintiff, Ram Mehar (since deceased), had filed a suit for specific performance with consequential relief of permanent injunction against the petitioner-defendants [Bijender Singh (since deceased) and others] with regard to the sale of land for a total consideration of ₹93,06,250/-.

3.1 During the pendency of the suit, a compromise was arrived at between the parties on 13.07.2018 (Annexure P-2) (Ex. C-1 before the Court below). As per the compromise, the defendants were required to pay to the plaintiff, within three months i.e. by 13.10.2018, a sum of ₹45,00,000/- (₹35,00,000/- as agreement amount and ₹10,00,000/- as interest). It was further agreed that if the defendants failed to pay the said amount by 13.10.2018, the plaintiff would be bound to register the property in question by taking the balance amount of ₹58,06,250/-. Conversely, if the plaintiff failed to get registered the sale deed qua suit property within the next three months, i.e. by 13.01.2019, the amount of ₹35,00,000/- under the agreement would stand forfeited.

3.2 The matter was thereafter placed before the National Lok Adalat, where the learned Civil Judge (Junior Division)-cum-Presiding Officer, Sohna, passed an Award on 14.07.2018 (Annexure P-3) on the basis of the aforesaid compromise deed. However, the parties did not adhere to the compromise terms. Consequently, an execution petition



(EXE/37/2023) was filed by the decree holder-plaintiff Ram Mehar (Annexure P-4) before the learned Civil Judge (Junior Division), Sohna.

3.3 In the said execution, objections were filed by the judgment debtors, and after considering the same (Annexure P-6), along with the reply, the learned Civil Judge (Junior Division), Sohna, vide order dated 05.04.2025 (Annexure P-7), observed that questions relating to compliance with the compromise deed dated 13.07.2018 (Annexure P-2) required adjudication, and accordingly framed the following issues:-

- i. *Whether, the judgment debtors have fulfilled the condition of compromise Ex. C-1, i.e. the payment of Rs. 45,00,000/- till 13.10.2018? OPJD*
- ii. *Whether the decree holder was ready and willing to perform his part of the compromise as per Ex. C-1? OPDH*
- iii. *Whether the present execution is not maintainable? OPJD*

3.4 The matter was then fixed for the evidence of the decree holder. However, the record reveals that the decree holder took as many as six to seven opportunities to lead his evidence. Thereafter, on 22.08.2025 an application was filed by the decree holder seeking a direction that respondents/judgment debtors be permitted to lead their evidence first in support of their objections (Annexure P-19).

3.5 Upon hearing both sides, the learned Civil Judge (Junior Division), Sohna, vide impugned order dated 03.09.2025 (Annexure P-1), held that in view of the compromise deed dated 13.07.2018 (Annexure P-2), it was for the judgment debtors to first prove whether the payment of



₹45,00,000/- had been made to the decree holder by 13.10.2018, and only thereafter the decree holder would be required to lead evidence on issue

No. 2.

4. Learned counsel for the petitioner submits that after framing of issues on 05.04.2025 (Annexure P-7), the case was adjourned for the evidence of the decree holder to several dates: 14.05.2025 (Annexure P-8), 21.05.2025 (Annexure P-9), 02.07.2025 (Annexure P-10), 11.07.2025 (Annexure P-11), 18.07.2025 (Annexure P-12), 01.08.2025 (Annexure P-13), and 06.08.2025 (Annexure P-14). On some dates, no witness was present; on some others, adjournments were sought or proceedings were disrupted due to strike. It is contended that since multiple opportunities had already been availed of by the decree holder, the Court below erred in changing the course of proceedings by directing the judgment debtors to lead evidence first. It is urged that the impugned order dated 03.09.2025 (Annexure P-1) is illegal and contrary to law, and that instead the evidence of the decree holder ought to have been closed.

5. In support of his submissions, learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in *Jami Venkata Suryaprabha and another vs. Tarini Prasad Nayak and others*, 2025 (2) RCR (Civil) 27, as also the judgment of a Co-ordinate Bench of this Court in *Kuldip Singh Sumra vs. Avtar Singh Sumra and others* (CR No. 2233 of 2023), decided on 22.04.2025, wherein reference was made to the aforesaid judgment of the Hon'ble Supreme Court in *Jami Venkata Suryaprabha's case (supra)*.



6. I have heard learned counsel for the revisionist-petitioner and perused the paper-book.

7. In view of the order proposed to be passed, issuance of notice to the respondents is not considered necessary, as the same would only delay the proceedings and entail additional expense to them.

8. Order XVIII Rule 1 CPC provides as under:

“1. Right to begin-- The plaintiff has the right to begin unless the defendant admits the facts alleged by the plaintiff and contends that either in point of law or on some additional facts alleged by the defendant the plaintiff is not entitled to any part of the relief which he seeks, in which case the defendant has the right to begin.”

9. The Hon’ble Supreme Court in *Jami Venkata Suryaprabha’s* case (*supra*) categorically held that there is no impediment for the Court to call upon either party to lead evidence first, depending upon the facts and circumstances of the case and the nature of issues framed. Neither party can insist that the other must be directed to lead evidence first. Where the Court finds that the defendant’s plea strikes at the root of the case, there would be no impediment in directing him to prove such plea at the outset.

10. In the present case, the onus to prove issue No. 1 was upon the judgment debtors. The Court below, in its wisdom, deemed it proper to require the judgment debtors to lead evidence first, so as to enable disposal of the execution proceedings on that basis. Such a direction is in consonance with the ratio laid down by the Hon’ble Supreme Court in *Jami Venkata Suryaprabha’s* case (*supra*).



11. Accordingly, the impugned order dated 03.09.2025 (Annexure P-1) passed by the learned Civil Judge (Junior Division), Sohna, cannot be said to be either perverse or illegal.

12. Finding no illegality or perversity in the impugned order, the present Civil Revision Petition, being devoid of merit, is dismissed.

13. Pending miscellaneous application(s), if any, shall also stand disposed of.

SEPTEMBER 24, 2025
nitin

(AMARINDER SINGH GREWAL)
JUDGE

Whether Speaking	Yes
Whether Reportable	No