



CR-5810-2025 (O&M)

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

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CR-5810-2025 (O&M)

Reserved on:08.09.2025

Pronounced on:11.09.2025

Prem Aggarwal (since deceased) through her GPA holder

... Petitioner

Versus

Mohan Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Ashwani Kumar Chopra, Senior Advocate (through VC)
Mr. Sumeet Mahajan, Senior Advocate with
Mr. Saksham Mahajan, Advocate
Ms. Radhika Deekshay, Advocate
Ms. Shruti Singla, Advocate
for the petitioner.

Mr. C.L. Verma, Advocate
for respondents.

AMARINDER SINGH GREWAL, J.

1. The present civil revision under Article 227 of the Constitution of India for setting aside orders dated 07.08.2025(Annexure P-5) as well as order dated 12.08.2025 (Annexure P-6) whereby the learned Civil Judge (Junior Division) Chandigarh (for short Executing Court) in Execution Case No.EXE/292/2025; *Mohan Singh versus Prem Aggarwal*, has issued warrants of possession and directed the concerned SHO to execute the same on or before 28.08.2025 as also order dated 18.08.2025(Annexure P-8), vide which objections filed by the petitioner have been dismissed.

2. Succinctly, the facts of the case are, that House No.1022, a two-storey residential building measuring two kanals situated in Sector 21-B,



Chandigarh, was originally owned by Late Shri Jagjit Singh and upon his demise in 1987, devolved upon his three sons, namely Mohan Singh (respondent No.1), Late Kuldeep Singh, and Paramjit Singh (respondent No.3). On 12.06.1989, respondent no.1(defendant-appellant) executed an agreement to sell the suit property to the petitioner (plaintiff) for a total consideration of Rs.14,50,000/-, receiving Rs.25,000/- as earnest money, he then signed the agreement, both in his personal capacity and as attorney for his two brothers. Thereafter, on 22.02.1990, the petitioner (plaintiff) instituted Civil Suit No.44 of 1990 seeking permanent injunction against the respondents (defendants), which was dismissed on 15.06.1990. On 11.06.1990, the petitioner(plaintiff) filed Civil Suit No.552 of 1990 for specific performance of the agreement to sell, which was decreed in her favour on 11.12.2009. The appeal filed by the respondents (defendants) was dismissed on 19.09.2013. Their further Regular Second Appeal No.1683 of 2014 was dismissed by this Court on 13.05.2022, affirming the decree of specific performance. The review application (R.A. No.31 of 2022) was also dismissed on 29.08.2022, leading the respondents (defendants) to approach the Hon'ble Supreme Court in appeal.

2.1 The Hon'ble Supreme Court, vide judgment dated 01.04.2025, allowed the appeals and set aside the decree of specific performance. In lieu of the earnest money of ₹25,000, awarded a compensation of ₹2 crores in favour of the petitioner (plaintiff). Thereafter, the respondents (defendants), being the decree holders, filed an execution petition before the Executing Court at Chandigarh. The Executing Court, by orders dated 07.08.2025 and 12.08.2025, not only directed the respondents (defendants) to deposit the compensation amount but also went further to issue warrants of possession against petitioner



(plaintiff) with police aid. Aggrieved thereby, the petitioner (plaintiff) has filed the present revision petition challenging the impugned orders as enumerated herein above.

3. Learned senior counsels assisted by assisting counsels for the petitioner (plaintiff), *inter alia*, contends that the impugned execution proceedings are wholly misconceived inasmuch as the Hon'ble Supreme Court, vide judgment dated 01.04.2025, had only passed a money decree for refund of ₹2 crores as compensation, without any direction for delivery of possession of House No.1022, Sector 21-B, Chandigarh. Further, the Executing Court travelled beyond its jurisdiction by issuing warrants of possession despite the absence of any such relief in the decree. Furthermore, the warrants issued are vague and inexecutable since the property is a two-storey building with an annexe, different portions of which are occupied by the petitioner (plaintiff) and third-party tenants. It is pertinent to mention that the respondents (defendants) styled themselves as decree holders and concealed the pendency of another execution petition qua the same property, thereby playing fraud upon the court. In addition, Section 144 CPC has no application as the petitioner obtained possession under the agreement to sell and not by virtue of any decree. Lastly, it is argued that the Executing Court erred in linking delivery of possession with payment of compensation, and therefore the impugned orders dated 07.08.2025, 12.08.2025, and 18.08.2025 are illegal, arbitrary and unsustainable. Reliance in this regard is placed on the judgment rendered by the Hon'ble Supreme Court in *Murti Bhawani Mata Mandir Vs. Ramesh and Others (2019) 3 SCC 707*, *Gammon India Ltd Vs. M.S. Reddy & Co.(2004) 13 SCC 359*, *Rajbir Vs. Suraj*



Bhan and Another(2022) 14 SCC 609, C.F. Angadi Vs. Y.S. Hirannayya (1972) 1 SCC 191.

4. Learned counsel for the respondents (defendants) submits that the Hon'ble Supreme Court, while setting aside the decree for specific performance has clearly recorded findings under paras 12 and 13 of its judgment that the petitioner had taken undue advantage of possession delivered under the agreement to sell. Further, the Supreme Court awarded an extraordinary compensation of ₹2 crores against a meagre earnest money of ₹25,000/-, thereby recognising the harassment caused to the respondents (defendants). Furthermore, the petitioner (plaintiff) has filed a review petition before the Supreme Court which was dismissed, but this fact was deliberately concealed in the present petition, thus the petitioner (plaintiff) has not approached this Court with clean hands. Subsequently, reliance is placed upon Section 144 CPC and the principle of restitution. In addition, it is urged that the court possesses inherent powers to order restitution even if not expressly invoked under Section 144 CPC. Lastly, it is contended that since the possession of petitioner (plaintiff) was only permissive under the agreement to sell and the decree for specific performance has been set aside, the respondents (defendants), being decree holders within the meaning of Section 2(3) CPC, are entitled to restitution of the property, and the impugned orders suffer no infirmity. Reliance in this regard is placed on the judgment rendered by the Hon'ble Supreme Court in *Kavita Trehan Vs. Balsara Hygiene Products Ltd, (1994) 5 SCC 380* and *Indian Council for Enviro-Legal Action Vs. Union of India (2011) 8 SCC 161.*



5. Having heard learned counsel for the parties and upon perusal of the record, with their able assistance, this Court does not find any force in the arguments advanced by learned Senior Counsels for the petitioner. The decree for specific performance was set aside by the Hon'ble Supreme Court on the ground that the suit for specific performance itself was barred under Order 2 Rule 2 CPC, as the petitioner (plaintiff) has consciously omitted to claim specific performance in the earlier suit filed for permanent injunction and thus, could not be permitted to raise the same cause in subsequent suit.

6. It is admitted case of the petitioner (plaintiff) that she was put in possession of the suit property, a two-storey residential building measuring 2 kanals, in lieu of agreement to sell dated 12.06.1989. The relevant clause of agreement to sell dated 12.06.1989 is reproduced as under:-

“9. That as there as two tenants already living in the premises, to facilitate the vacant possession of the tenanted area, the seller has delivered possession of the ground floor of the house. All original papers of the said house shall be passed on to the purchaser at the time of completion of the bargain.”

7. From a bare perusal of the aforesaid clause, it is crystal clear that at the time of execution of the agreement to sell, two tenants were already living in the premises and the petitioner (plaintiff) was delivered possession of the ground floor of the house, thus, possession of first floor and annexe was never delivered to the petitioner (plaintiff) as per agreement to sell *ibid*. Though it is vehemently contended that another execution petition has been preferred by the respondents-defendants titled as *Mohan Singh and others Vs. Vinod Goyal* for execution of judgment dated 09.05.2018 passed by the learned Rent Controller, Chandigarh, which was obtained by collusion and fraud on the basis of oral



tenancy, as the said Vinod Goyal was tenant of respondents-defendants on the basis of lease deed dated 28.07.2005 but the said lease deed has not seen light of the day.

8. The suit for specific performance was filed on 11.06.1990, which after almost 35 years, culminated into passing of judgment dated 01.04.2025 by the Hon'ble Supreme Court whereby decree for specific performance was set aside and a decree for refund of Rs.2 crores as compensation, in lieu of earnest money was granted to petitioner (plaintiff). It took 35 years for the parties to know the ultimate fate of the dispute that arose between them, after crossing various rungs of judicial review and it is not an exception but common phenomenon. That is why the Hon'ble Supreme Court way back in 1998 while passing judgment in the case of ***Shreenath and another Vs. Rajesh and others (1998) 4 SCC 543*** has observed as under:-

“The seeker of justice many a time has to take long circuitous routes, both on account of hierarchy of courts and the procedural law. Such persons are and can be dragged till the last ladder of the said hierarchy for receiving justice but even here he only breathes fear of receiving the fruits of that justice for which he has been aspiring to receive. The reach this stage is in itself an achievement and satisfaction as he, by then has passed through a long arduous journey of the procedural law with many hurdles replica of mountain terrain with ridges and furrows. When he is ready to take the bite of that fruit, he has to pass through the same terrain of the procedural law in the execution proceedings the morose is writ large on his face. What looked inevitable to him to receive it at his hands distance is deluded back into the horizon. The creation of the hierarchy of courts was for a reasonable objective for conferring greater satisfaction to the parties that errors, if any, by any of the lower courts under the scrutiny of a



higher court be rectified and long procedural laws also with good intention to exclude and filter out all unwanted who may be the cause of obstruction to such seeker in his journey to justice. But this obviously is one of the causes of delay in justice. Of course, under this pattern the party wrongfully gaining within permissible limits also stretches the litigation as much as possible. Thus this has been the cause of anxiety and concern of various authorities, legislators and courts. How to eliminate such a long consuming justice? We must confess that we have still to go a long way before true satisfaction in this regard is received. Even after one reaches the stage of final decree, he has to undergo a long distance by passing through the ordained procedure in the execution proceedings before he receives the bowl of justice.

2. The courts within their limitation have been interpreting the procedural laws so as to conclude all possible disputes pertaining to the decretal property which is within its fold in an execution proceeding, i.e., including what may be raised later by way of another bout of litigations through a fresh suit. Similarly legislatures equally are also endeavouring by amendments to achieve the same objective. The present case is one in this regard. Keeping this in view, we now proceed to examine the present case.

3. In interpreting any procedural law, where more than one interpretation is possible, the one which curtails the procedure without eluding justice is to be adopted. The procedural law is always subservient to and is in aid of justice. Any interpretation which eludes or frustrates the recipient of justice is not to be followed.

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9. The execution proceedings were initiated by the decree holders, who were defendants in the original suit and by virtue of judgment passed by the Hon’ble Supreme Court setting aside the decree of specific performance and passing a decree for refund of Rs.2 crores as compensation in lieu of earnest



money of Rs.25,000/-, they became decree holders and the plaintiff became the judgment debtor. Now the question arose before this Court is whether in the absence of any explicit direction with respect to return of possession to the respondents-defendants, the Executing Court is justified in issuing warrants of possession and the answer is in affirmative. Undoubtedly, the judgment passed by the Hon'ble Supreme Court is silent about possession of the suit property to be returned to the respondents-defendants after getting compensation of Rs.2 crore. But it is also undisputed that the petitioner-plaintiff was put into possession of the suit property in terms of agreement to sell dated 12.06.1989 and when decree of specific performance of aforesaid agreement to sell has been set aside by the Hon'ble Supreme Court, it is axiomatic that parties to agreement to sell are required to be put in the same position as they were at the time of execution of the agreement. The respondents-defendants had enjoyed earnest money of Rs.25,000/- for almost 35 years and thus, they have to return Rs.2 crores against the amount of Rs.25,000/- and conversely, since petitioner-plaintiff enjoyed possession of property for the aforesaid period, she has to now give back the possession on receipt of compensation of Rs.2 crores.

10. The argument advanced by learned senior counsel for the petitioner is that Section 144 CPC applies to cases where a decree or an order is varied or reversed in any appeal, revision or other proceedings or is set aside or modified in any suit instituted for the purpose and in that situation, the Court which passed the decree or order shall, on the application of any party entitled to any benefit by way of restitution or otherwise, cause such restitution to be made as will, so far as may be, place the parties in the position which they would have occupied; and since in the present case, there was no such decree qua



possession, principle of restitution cannot be applied, has no merit. As has already been discussed above, the petitioner-plaintiff was put into possession in lieu of agreement to sell dated 12.06.1989, which ceased to exist as on date, in view of the judgment passed by the Hon'ble Supreme Court whereby decree for specific performance has been set aside and the said judgment has attained finality. Therefore, once the agreement to sell is unenforceable in view of the judgment of the Hon'ble Supreme Court, then the possession received by the petitioner-plaintiff is required to be returned back to respondents-defendants, as she is getting Rs.2 crores as compensation against the earnest money of Rs.25,000/-. It cannot be a win-win situation for her. She has to lose something and that is possession in the present case. The principle of unjust enrichment is attracted where a person has received benefit of money or property of another against the fundamental principle of justice or equity and good conscience and the unjust enrichment is basic to the subject of restitution. They are usually linked together and restitution is frequently based upon the theory of just enrichment. If the argument of learned senior counsels is to be accepted, then to claim possession, respondents-defendants will be forced to file a separate suit for possession and again to take a long circuitous route, as the litigation continues for years and a litigant remains in suspense about the fate of his case till the last ladder of hierarchy of courts and sometimes results unfolds to the next generation. This cannot be true purport of the judgment passed by the Hon'ble Supreme Court.

11. Further, the judgment relied upon by him in *Murti Bhawani Mata Mandir's case* (supra) is not applicable, as in the said case possession of the plaintiff was not even proved and therefore, there was no question to return the



possession and in those circumstances, provisions of Section 144 CPC were not attracted, there being no variation or reversal of a decree or order. In the case in hand, it is undisputed that the petitioner-plaintiff was put in possession in terms of agreement to sell dated 12.06.1989. There is no dispute to the settled proposition of law that the Executing Court cannot go beyond the decree and it has to execute the decree in accordance with law and as it is, as has been held in the judgments of the Hon'ble Supreme Court in the cases of ***Gammon India Ltd and Rajbir Vs. Suraj Bhan*** (supra), as referred to by learned senior counsel.

12. It is trite that if there is any ambiguity in the language of the decree, the Executing Court is competent to construe it in order to give effect to the true import and intention of the judgment and if necessary, by looking into the pleadings and the judgment. The Hon'ble Supreme Court in ***Shaifuddin (dead) through LRs Vs. Kanhiya Lal (dead) through LRs and others 2023 SCC OnLine SC 478*** has observed as under:-

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iii. The purpose of an execution proceeding is to enable the decree-holder to obtain the fruits of his decree.

iv. In case where the language of the decree is capable of two interpretations, one of which assists the decree-holder to obtain the fruits of the decree and the other prevents him from taking the benefits of the decree, the interpretation which assists the decree-holder should be accepted.

v. A decree is not to be rendered futile on technicalities. A rational approach is necessitated in cases where a decree has been the



subject of prolonged litigation and a fair construction is to be given thereto.”

Further, the Hon’ble Supreme Court in ***Rajinder Kumar v. Kuldeep Singh, (2014) 15 SCC 529*** has held as under:-

“21. If the suit for specific performance is not decreed as prayed for, then alone the question of any reference to the alternative relief would arise. Therefore, there is no question of any ambiguity. As held by this Court in Topanmal Chhotamal v. Kundomal Gangaram [Topanmal Chhotamal v. Kundomal Gangaram, AIR 1960 SC 388, p. 390, para 4: “4. At the worst the decree can be said to be ambiguous. In such a case it is the duty of the executing court to construe the decree. For the purpose of interpreting a decree, when its terms are ambiguous, the court would certainly be entitled to look into the pleadings and the judgment....”] and consistently followed thereafter, even if there is any ambiguity, it is for the executing court to construe the decree if necessary after referring to the judgment. If sufficient guidance is not available even from the judgment, the court is even free to refer to the pleadings so as to construe the true import of the decree. No doubt, the court cannot go behind the decree or beyond the decree. But while executing a decree for specific performance, the court, in case of any ambiguity, has necessarily to construe the decree so as to give effect to the intention of the parties....”



13. If in the decree for specific performance possession is inherent then in the case of denial of specific performance, if the possession has already been offered in terms of agreement to sell, the same ought to have been restored back to the party opposite. The Hon'ble Supreme Court in the judgment passed in *Kavita Trehan's case* (supra), while dealing with the scope of restitution as enshrined under Section 144 CPC, has held that law of restitution is not confined only to the jurisdiction of the Civil Court but it is general law that every authority, Tribunal or the Court has the power and jurisdiction to put a party back to the same position when a decree or an order is varied or reversed in appeal, revision or other proceedings. Furthermore, in para 183 of the said judgment, it is observed as under:-

“183. We may add that restitution and unjust enrichment, along with an overlap, have to be viewed with reference to the two stages i.e. pre-suit and post-suit. In the former case, it becomes a substantive law (or common law) right that the court will consider; but in the latter case, when the parties are before the Court and any act/omission, or simply passage of time, results in deprivation of one, or unjust enrichment of the other, the jurisdiction of the Court to levelise and do justice is independent and must be readily wielded, otherwise it will be allowing the Court's own process, along with time delay, to do injustice.”

14. In the present case, the construction adopted by the Executing Court was both reasonable and equitable to ensure that the decree was not reduced to a mere paper relief. The plea that the decree did not specifically direct delivery of possession cannot be accepted in the peculiar facts and circumstances, where the very foundation of the litigation was the agreement to sell under which possession had been transferred. The Executing Court,



therefore, rightly issued warrants of possession so as to give complete effect to the judgment of the Hon'ble Supreme Court.

15. As an upshot of above, no ground for interference under Article 227 of the Constitution is made out and the impugned orders dated 07.08.2025 and 12.08.2025 passed by the Executing Court are affirmed. Resultantly, the instant revision petition stands dismissed.

16. Miscellaneous application(s), if any, also stand disposed of.

(AMARINDER SINGH GREWAL)
JUDGE

September 11, 2025

Pankaj*

Whether speaking/reasoned : Yes

Whether reportable : Yes