



CR No. 6815 of 2025 (O&M) -1-

124 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 6815 of 2025 (O&M)
DATE OF DECISION: 24.09.2025

HARMESH SINGH @ HARMESH

.....PETITIONER

Vs.

MOHINDER LAL

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Dinesh Nagar & Ms. Ramyajit Kaur, Advocates,
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 01.08.2025 (Annexure P-8), passed by the learned Additional Civil Judge (Senior Division), Garhshankar-cum-Executing Court, whereby instead of awaiting the verdict in the civil appeal filed by the defendant-appellant/Judgment Debtor, pending before the learned lower appellate Court, titled *Harmesh Singh vs. Mohinder Singh*, the stay application was dismissed and warrants dated 25.08.2025 (Annexure P-9) for removal of obstruction, as mentioned in the civil suit, were issued in the light of the judgment and decree dated 24.01.2025, illegally and arbitrarily, despite the fact that the legality and veracity of the said judgment and decree are already under challenge before the learned lower appellate Court, of which the Executing Court had due knowledge.



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

3. In view of the order proposed to be passed, notice is not being issued to the respondent as it would delay the proceedings and entail additional expense to him.

4. The Brief facts of the case are that the respondent-plaintiff, Mohinder Lal, son of Rawal, filed a suit for permanent injunction restraining the petitioner-defendant, Harmesh Singh @ Harmesh, himself or through anybody else, from creating any obstruction or raising any construction in the street marked as ABCD and detailed in the head-note of the plaint, and also sought the relief of mandatory injunction directing the defendant to restore the street marked as ABCD, shown in red in the site plan.

4.1 Written statement was filed by the petitioner-defendant, questioning the maintainability of the suit, contending that the plaintiff had no *locus standi* or cause of action, and further alleging that the suit was bad for non-joinder of property and necessary parties. It was further contended that the site plan relied upon by the respondent-plaintiff was incorrect and that the respondent-plaintiff had left private passage for ingress and egress to his house. It was claimed that the street in dispute is a public street and not the exclusive property of the respondent-plaintiff.

4.2 Three issues were framed, including the relief clause. The respondent-plaintiff examined three witnesses and closed his evidence. Conversely, the petitioner-defendant examined two witnesses and also closed his evidence.



4.3 On appraisal of the evidence, the learned Additional Civil Judge (Senior Division), Garhshankar, decreed the suit vide judgment and decree dated 24.01.2025, restraining the appellant-defendant from raising any construction over the suit property depicted as ABCD and shown in red in the site plan Ex. P-1, or from creating any obstruction in its free usage. The defendant was also directed to restore the street to its original position by removing/blocking the windows, ventilators and dismantling the water spouts as well as projections protruding onto the site in dispute.

4.4 Against the aforesaid judgment dated 24.01.2025, the petitioner-appellant filed an appeal before the learned Additional District & Sessions Judge, Hoshiarpur, on 27.02.2025 (Annexure P-2). The appeal was duly registered, and notice of appeal as well as application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short, *the CPC*), was issued to the respondent-plaintiff for 20.03.2025. Vide interim order dated 20.03.2025 (Annexure P-4), notice issued to the respondent Mohinder Lal was received back with the report that he was not residing in the village. The appellant-petitioner was directed to file the correct address within seven days, and fresh notice was ordered for 06.05.2025. Vide interim order dated 06.05.2025 (Annexure P-5), correct address was filed and notice issued for 11.07.2025, to be taken '*dasti*'. On 11.07.2025 (Annexure P-6), Sh. Neeraj Kumar, Advocate, filed power of attorney on behalf of the respondent-plaintiff Mohinder Lal, and the record was summoned for 13.08.2025. Vide interim order dated 13.08.2025 (Annexure P-7), since the Bar was abstaining from work, the matter was adjourned to 15.10.2025 for arguments.



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4.5 During pendency of the appeal, the respondent-plaintiff Mohinder Lal filed an execution application bearing No. 194/2025 (Annexure P-8). In that execution, the petitioner-appellant filed a stay application submitting that Civil Appeal No. 92/2025 had been filed in the District Court, Hoshiarpur, and that an application for stay of the judgment and decree dated 24.01.2025, passed by the learned Additional Civil Judge (Senior Division), Garhshankar, had also been filed, but remained undecided. Thus, prayer was made to stay the operation of the judgment and decree during pendency of the appeal.

4.6 Reply to the said application was not filed by the respondent-plaintiff but he argued that since the decree had not been stayed, the execution proceedings could not be withheld.

4.7 On hearing both sides, the learned Executing Court held that since the decree dated 24.01.2025 was not stayed by the appellate Court, it remained executable, and accordingly declined stay of execution proceedings, vide order dated 01.08.2025 (Annexure P-8).

4.8 Subsequently, vide order dated 25.08.2025 (Annexure P-9), the learned Additional Civil Judge (Senior Division), Garhshankar, recorded that counsel for the Judgment Debtor/petitioner had appeared on the previous date of hearing, i.e. 01.08.2025 and stated at Bar that the Judgment Debtor was ready to comply with the decree and sought one week's time to do so. However, since the compliance was not made, on an application made by the decree-holder/respondent-plaintiff, warrants were issued for removal of obstruction.



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5. From the facts noticed above, it is clear that instead of complying with the undertaking given by him before a Court of law, the petitioner preferred the present revision. Hence, as the petitioner-defendant failed to comply with his undertaking recorded in the order dated 25.08.2025 (Annexure P-9), this Court finds no merit in the prayer for setting aside the order dated 01.08.2025 (Annexure P-8). Accordingly, the present revision petition, being devoid of merit, stands dismissed.

6. 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