



CR-6883-2025

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

(112)

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Date of Decision:-26.09.2025

Vinod Devi

.....Petitioner

Versus

Dinesh Kumar

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Fateh Saini, Advocate,
for the petitioner.

AMARINDER SINGH GREWAL, J. (Oral)

1. The present revision petition has been filed under Article 227 of the Constitution of India seeking setting aside of the impugned order dated 14.05.2025 (*Annexure P-1*) passed by the Learned Civil Judge (Senior Division), Rohtak, whereby the application filed by the respondent for setting aside the ex-parte order dated 19.05.2023 (*Annexure P-5*) was allowed subject to costs of ₹10,000/-. The petitioner further prays for stay of the impugned order during the pendency of the present proceedings.

2. Brief facts of the case are that the petitioner entered into an agreement to sell dated 25.03.2023 with the respondent qua the suit property for a total consideration of ₹56,00,000/-, possession of the suit property was also delivered to her at the time of execution of agreement.

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The respondent allegedly attempted to interfere in her possession, therefore, the petitioner constrained to file Civil Suit No. 546 of 2023 for mandatory and permanent injunction on 15.05.2023. The respondent, despite service, did not appear before the Trial Court and was proceeded ex-parte on 19.05.2023. The petitioner led her evidence and closed the same on 10.08.2023. Thereafter, the respondent moved an application dated 05.10.2023 for setting aside the ex-parte order, which was allowed by learned trial Court vide impugned order dated 14.05.2025

3. Learned counsel for the petitioner, *inter alia*, submits that the impugned order is wholly unsustainable in law as the respondent's application for setting aside the ex-parte order dated 19.05.2023 was barred by limitation by 137 days. However, the application for setting aside exparte order was not accompanied by any application for condonation of delay. Further, it was not supported by verification or affidavit, and was filed despite the respondent having full knowledge of the pendency of the suit as reflected from his appearance in another Civil Suit bearing No. 605 of 2023 relating to the same property. He further contends that the respondent deliberately avoided appearance, whereas the petitioner had already concluded her entire evidence and the matter has already been fixed for final arguments. Lastly, the Trial Court, having itself observed that no ground existed to allow the application, committed a manifest jurisdictional error in nevertheless setting aside the ex-parte order, which caused grave prejudice to the case of the petitioner. Learned counsel for the petitioner has placed strong reliance on the decision of *Civil Appeal No. 11794 of 2025*

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(Shivamma (Dead) by LRs. v. Karnataka Housing Board and Others), wherein the Hon'ble Supreme Court set aside an order condoning inordinate delay of 3966 days.

4. I have heard learned counsel for the petitioner at length and perused the paper book.

5. In view of the order proposed to be passed, notice is not being issued to respondent as it would delay the proceedings besides entailing additional expenses to the respondent.

6. The Trial Court exercised its discretion while deciding the respondent's application under Order IX Rule 7 CPC. The settled principle of law is that a litigant should not ordinarily be denied an opportunity to contest the case, so long as such request is made before the final decision of the suit. The learned trial Court, while allowing the application, tried to balance the equities by directing the respondent to pay costs of ₹10,000/-, thereby compensating the petitioner for inconvenience caused due to the delay.

7. The objections raised by the petitioner, namely that the application was not supported by affidavit or verification and that no separate application for condonation of delay was filed, have been considered. However, such technical lapses by themselves do not constitute sufficient grounds to invoke the supervisory jurisdiction of this Court under Article 227 of the Constitution. The powers under Article 227 are to be exercised sparingly and only where there is illegality, perversity, or



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jurisdictional error. Once the Trial Court has exercised its discretion to grant an opportunity to the respondent, this Court cannot substitute that discretion unless it is shown to be arbitrary or wholly unreasonable.

8. The reliance placed by the petitioner on *Civil Appeal No.11794 of 2025 (Shivamma (Dead) by LRs. v. Karnataka Housing Board)* has also been duly considered. In that case, the Hon'ble Supreme Court refused to condone an extraordinary delay of 3,966 days. The facts of that case are entirely different from the present one. Here, the delay is comparatively short and the suit itself has not yet been finally adjudicated. Additionally, the respondent has approached the Court before the decree has been passed. Therefore, the principle laid down in the said judgment cannot be applied to the present facts in a straightjacket manner.

9. In view of the above discussion, this Court finds no infirmity or perversity in the impugned order dated 14.05.2025 passed by the Learned Civil Judge (Senior Division), Rohtak. Accordingly, the present Civil Revision Petition stands **dismissed**.

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

(AMARINDER SINGH GREWAL)
JUDGE

26.09.2025
Shubham

Whether speaking/reasoned:-	Yes/No
Whether Reportable:-	Yes/No