



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

124

CR No.2865 of 2025 (O&M)

Date of Decision :12.05.2025

Rajinder Gautam (since deceased) through LRs

.....Petitioners

Versus

Raj Bala and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE VIKRAM AGGARWAL

Present : Mr. Lakhwinder Singh Mann, Advocate for the petitioner.

Mr. Avin Sandhu, Advocate for GMADA.

VIKRAM AGGARWAL, J. (Oral):

The present revision petition has been preferred under Article 227 of the Constitution of India for the issuance of a direction to the Executing Court to decide Execution Petition (EXE-126-2022) (Annexure P-2) which is stated to be pending in the Court of Civil Judge (Jr. Divn.), SAS Nagar, Mohali, in terms of the directions issued by the Supreme Court in case of **Periyammal (Dead) through LRs and others Vs. Rajamani & Anr. Etc. 2025 Live Law (Supreme Court) 293** and **Rahul S. Shah V/s Jinendra Kumar Gandhi and others, 2021(2) RCR (Civil) 854.**

The Supreme Court, vide judgment, issued in **Periyammal (Dead) through LRs and others (supra)** and **Rahul S. Shah (supra)**, had directed the Executing Courts to decide execution petitions within a period of 6 months and certain guidelines had been issued:-

“42. All Courts dealing with suits and execution proceedings shall mandatorily follow the below-mentioned directions:

- 1. In suits relating to delivery of possession, the court must examine the parties to the suit under Order 10 in relation to third.***
- 2. party interest and further exercise the power under Order 11, Rule***



- 14 asking parties to disclose and produce documents, upon oath, which are in possession of the parties including declaration pertaining to third party interest in such properties.*
- 3. In appropriate cases, where the possession is not in dispute and not a question of fact for adjudication before the Court, the Court may appoint Commissioner to assess the accurate description and status of the property.*
- 4. After examination of parties under Order 10 or production of documents under Order 11 or receipt of commission report, the Court must add all necessary or proper parties to the suit, so as to avoid multiplicity of proceedings and also make such joinder of cause of action in the same suit.*
- 5. Under Order 40, Rule 1 of CPC, a Court Receiver can be appointed to monitor the status of the property in question as custodia legis for proper adjudication of the matter.*
- 6. The Court must, before passing the decree, pertaining to*
- 7. delivery of possession of a property ensure that the decree is unambiguous so as to not only contain clear description of the property but also having regard to the status of the property.*
- 8. In a money suit, the Court must invariably resort to Order 21, Rule 11, ensuring immediate execution of decree for payment of money on oral application.*
- 9. In a suit for payment of money, before settlement of issues, the defendant may be required to disclose his assets on oath, to the extent that he is being made liable in a suit. The Court may further, at any stage, in appropriate cases during the pendency of suit, using powers under section 151 CPC, demand security to ensure satisfaction of any decree.*
- 10. The Court exercising jurisdiction under Section 47 or under Order 21 of CPC, must not issue notice on an application of third-party claiming rights in a mechanical manner. Further, the Court should refrain from entertaining any such application(s) that has already been considered by the Court while adjudicating the suit or which raises any such issue which otherwise could have been raised and determined during adjudication of suit if due diligence was exercised by the applicant.*
- 11. The Court should allow taking of evidence during the execution proceedings only in exceptional and rare cases where the question of fact could not be decided by resorting to any other expeditious method like appointment of Commissioner or calling for electronic materials including photographs or video with affidavits.*
- 12. The Court must in appropriate cases where it finds the objection*



or resistance or claim to be frivolous or mala fide, resort to Sub-rule (2) of Rule 98 Order 21 as well as grant compensatory costs in accordance with Section 35A.

13. Under section 60 of CPC the term ".in name of the judgment-debtor or by another person in trust for him or on his behalf" should be read liberally to incorporate any other person from whom he may have the ability to derive share, profit or property.

14. The Executing Court must dispose of the Execution Proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay.

15. The Executing Court may on satisfaction of the fact that it is not possible to execute the decree without police assistance, direct the concerned Police Station to provide police assistance to such officials who are working towards execution of the decree. Further, in case an offence against the public servant while discharging his duties is brought to the knowledge of the Court, the same must be dealt stringently in accordance with law.

16. The Judicial Academies must prepare manuals and ensure continuous training through appropriate mediums to the Court personnel/staff executing the warrants, carrying out attachment and sale and any other official duties for executing orders issued by the Executing Courts."

Once such directions have been issued by the Hon'ble Supreme Court of India, each Court of law is bound to comply with the said directions and no further directions are required to be passed by this Court.

This Court is sanguine that each Court which is seized of the Execution petitions shall comply with the said directions in letter and spirit.

Execution petition is accordingly disposed of.

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

(VIKRAM AGGARWAL)
JUDGE

12.05.2025

Manoj Bhutani

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