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

(132)

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Date of Decision: - 27.03.2025

Satnam Singh through LRs and another**....Petitioners****Versus****Harwinder Singh****.....Respondent****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. Dhiraj Jindal, Advocate,
for the petitioners.

VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 16.11.2024 (Annexure P-1) in execution application No.150 of 2022 titled as 'Harwinder Singh Vs. Satnam Singh etc.' passed by the Civil Judge (Junior Division), Sunam, whereby the objections filed by the petitioners for dismissing the execution application dated 16.12.2022 has been dismissed.

2. Learned counsel for the petitioners has submitted that in the present case, Satnam Singh/defendant No.1 of whom the petitioners are the LRs had died on 27.08.2022, prior to the passing of the judgment and decree dated 06.09.2022. It is further submitted that the said judgment



and decree dated 06.09.2022 was ex-parte and thereafter, the petitioners had filed an application under Order 9 Rule 13 CPC for setting the said judgment and decree and the said application is pending. It is stated that in the execution application, the petitioners had raised certain objections to the extent that since defendant No.1 died prior to the judgment and decree dated 06.09.2022 and also the fact that the petitioners had filed an application under Order 9 Rule 13 CPC for setting aside the said ex-parte judgment and decree dated 06.09.2022, thus, till the time the application under Order 9 Rule 13 CPC is pending, the execution proceeding pending in the same Court should be stayed. It is submitted that the said objections have been dismissed by the Executing Court vide order dated 16.11.2024 (Annexure P-1) which order is illegal and deserves to be set aside.

3. This Court has heard learned counsel for the petitioners and has perused the paper-book and finds that the impugned order is in accordance with law, deserves to be upheld and the present revision petition being meritless, deserves to be dismissed for the reasons detailed hereinafter.

4. It is not in dispute that respondent/Harwinder Singh/plaintiff had filed a suit for possession by way of specific performance, declaration, permanent injunction and alternative relief of recovery. There were three defendants in the said suit, names of whom as reflected in the judgment dated 06.09.2022 (Annexure P-3), are reproduced hereinbelow: -

“1. Satnam Singh son of Jaati Singh son of Nika Singh,



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2. *Pal Kaur alias Harpal Kaur wife of Satnam Singh son of Jaati Singh, resident of village Sangtiwala, Tehsil Lehra, District Sangrur.*

3. *Harjinder Singh son of Gurjant Singh son of Chhota Singh, resident of village Sangtiwala, Tehsil Lehra, District Sangrur.”*

A perusal of the above would show that even Pal Kaur alias Harpal Kaur, who was the wife of Satnam Singh and is petitioner No.4 in the present revision petition, was also impleaded as party/defendant No.2 in the said suit. It is not disputed before this Court that all the three defendants, including the present petitioner No.4 and Satnam Singh, were duly served and a counsel had appeared on their behalf. As is apparent from para 2 of the judgment dated 06.09.2022, the said defendants were proceeded against ex-parte vide order dated 24.11.2021. It is also not in dispute that the said Satnam Singh had died on 27.08.2022 i.e. subsequent to having been served, having put in appearance and having been proceeded against ex-parte.

5. It would be relevant to note that as per the Punjab and Haryana High Court Amendment in Order 22 CPC, it was the duty of the Advocate, who was appearing on behalf of Satnam Singh, to bring it to the notice of the Court as well as the persons who were dominus litis about his death and it was equally his duty to bring on record the LRs of the deceased/defendant No.1-Satnam Singh and not of the persons who were dominus litis i.e. plaintiff. It would also be relevant to mention that in the present case, it is also not in dispute that the said Satnam Singh was duly served and was proceeded against ex-parte on 24.11.2021 when he

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was alive, thus, the petitioners, who are LR's of the said Satnam Singh, cannot be permitted to stall the execution proceedings on the plea that Satnam Singh had subsequently died. Moreover, petitioner No.4-Pal Kaur alias Harpal Kaur, who was wife of Satnam Singh, was also an independent party in the said suit and was also proceeded against ex-parte after being duly served.

6. On 06.09.2022, the ex-parte judgment and decree dated was passed in favour of the respondent/plaintiff. Admittedly, in the proceedings under Order 9 Rule 13 CPC, no interim order staying the execution of the the judgment and decree dated 06.09.2022 has been passed. The trial Court has dismissed the objections filed by the petitioners on 16.11.2024 by observing that Satnam Singh as well as the present petitioner No.4-Pal Kaur alias Harpal Kaur, who was defendant No.2, had appeared through counsel but later on did not appear before the Court and were proceeded against ex-parte and thus, they did not intend to contest the suit of the respondent/plaintiff. It was also observed that it was the duty of the executing Court to execute the judgment and decree dated 06.09.2022, qua which there was no stay operating, and the Executing Court could not go beyond the judgment and decree. The said order has been passed in accordance with law and deserves to be upheld.

7. The argument raised on behalf of counsel for the petitioners that the application under Order 9 Rule 13 CPC is pending, is meritless as admittedly there is no stay operating on the execution of the judgment and decree dated 06.09.2022 and thus, mere pendency of an application under



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Order 9 Rule 13 CPC cannot be made a ground to stop the Executing Court from executing the decree. Even the argument to the effect that Satnam Singh/defendant No.1 had died on 27.08.2022 i.e., prior to the judgment dated 06.09.2022, cannot be made the basis for setting aside the order passed by the Executing Court as apparently the said Satnam Singh/defendant No.1, while being alive, and petitioner No.4/Pal Kaur alias Harpal Kaur (defendant No.2) had appeared through the counsel in the civil suit and were thereafter proceeded against ex-parte on 24.11.2021 and merely because defendant No.1/Satnam Singh had died prior to the judgment and decree dated 06.09.2022 would not make the judgment and decree dated 06.09.2022 inexecutable.

8. Keeping in view the above-said facts and circumstances, this Court is of the opinion that the impugned order does not call for any interference and accordingly, the impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is dismissed.

March 27, 2025
naresh.k

(VIKAS BAHL)
JUDGE

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| Whether reasoned/speaking? | Yes |
| Whether reportable? | Yes |