



CR-7078-2025 (O&amp;M)

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

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**CR-7078-2025 (O&M)  
Decided on : 01.10.2025**

Kaptan (since deceased) through LRs

....Petitioner

VERSUS

Phoolpati (since deceased) through LR

...Respondent

**CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU**

Present: Mr. S.R.Hooda, Advocate for the petitioner.

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**MANDEEP PANNU J.**

1. Present civil revision under Article 227 of the Constitution of India has been filed challenging the impugned order dated 04.09.2025 passed by the learned Civil Judge (Jr. Divn.), Sonapat, whereby the objections filed by the petitioners/Judgment-Debtors in execution proceedings were dismissed.
2. Notice in the matter is not required at this stage in view of the nature of the relief sought.
3. The brief factual matrix is that decree holder Phoolpati was allotted 3 marla plot bearing No.5 by the Gram Panchayat, village Baiyanpur, vide registered gift deed dated 17.06.1983 from land comprised in khasra No. 45//60/5 (0-3 marla). According to the Judgment-Debtors, their forefathers had raised a dwelling house on the site about 60–70 years ago, and therefore they were in settled possession as owners of the land under their residential house, much prior to the allotment in favour of the Decree-Holder.
4. The Decree-Holders, however, filed a civil suit for possession on 27.10.2014, alleging encroachment by the Judgment-Debtors without any demarcation or measurement of plot No. 5. The Judgment-Debtors contested the claim. The learned Trial Court decreed the suit vide judgment dated 28.03.2023,



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directing the decree holders to pay requisite ad valorem court fee. The first appeal filed by the Judgment-Debtors was dismissed by the learned Appellate Court vide judgment dated 14.08.2025. Against these concurrent findings, the Judgment-Debtors have preferred RSA No. 3303 of 2025 before this Hon'ble Court, which is pending adjudication and fixed for 04.11.2025.

5. Meanwhile, the Decree-Holders initiated execution proceedings. The Judgment-Debtors filed objections raising two-fold grounds: firstly, that in the absence of demarcation/measurement and clear identification of plot No. 5, execution could not be carried out; and secondly, that since the regular second appeal is pending, the decree has not attained finality and the execution ought to be kept in abeyance.

6. The learned Executing Court, however, dismissed the objections on 04.09.2025, observing that the judgment and decree of the Trial Court as affirmed by the Appellate Court are binding and executable, and that pendency of RSA does not amount to stay of execution proceedings. It was further noted that no interim stay had been granted by the High Court in RSA proceedings.

7. I have considered the submissions made by learned counsel for the petitioners and carefully perused the impugned order as well as the record.

8. It is settled law that the Executing Court cannot travel beyond the decree under execution. In the present case, the decree dated 28.03.2023 as affirmed on 14.08.2025 has directed possession of the suit property to be restored to the decree holder. No stay of operation of the decree has been granted in the pending RSA. In such a situation, the Executing Court was fully justified in proceeding with execution and rejecting the objections. The plea of want of demarcation is essentially a matter which stood considered and adjudicated in the civil suit, and cannot be re-agitated in execution.



9. As regards the pendency of RSA, it is trite that mere filing of an appeal does not operate as stay unless a specific stay order is passed by the appellate court. In the absence of such stay, the decree is enforceable. The Executing Court has rightly noted that keeping the execution in abeyance merely on account of pendency of RSA would defeat the rights of the decree holder crystallized under the judgment and decree, and would amount to indirectly granting stay when none exists from the appellate forum.

10. The reliance placed by the petitioners upon their long-standing possession is again a defence which was raised in the civil suit and stands negated concurrently by both courts below. The executing court cannot sit in appeal over the findings already recorded.

11. In view of the above discussion, I find that the impugned order dated 04.09.2025 suffers from no illegality or perversity. The Executing Court has rightly dismissed the objections filed by the Judgment-Debtors. The plea of the petitioners that the execution should await the decision of the RSA cannot be accepted in law.

### **Conclusion**

12. The present civil revision petition is without merit and is hereby dismissed. It is, however, clarified that the execution proceedings shall remain subject to the outcome of RSA No. 3303 of 2025 pending before this Court.

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

October 01, 2025  
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**(MANDEEP PANNU)**  
**JUDGE**

Whether speaking/non-speaking : Speaking  
Whether reportable : Yes/No