



CR No. 6895 of 2025

1

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

126

CR No. 6895 of 2025

DATE OF DECISION :- 25.09.2025

Balwant Kaur (deceased) through her LR and another ...Petitioner

Versus

Jarnail Singh(deceased) through his LR and another ...Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. R.S. Waraich, Advocate for the petitioners.

VIRINDER AGGARWAL, J. (Oral)

1. This civil revision under Article 227 of the Constitution of India assails the order dated 30.07.2025 whereby the warrants of possession has been issued and further assails the order dated 22.08.2025 passed by the Executing Court whereby the fresh warrants of possession has been issued. The petitioner assails the impugned orders on the ground that he has been kept in dark about the execution proceedings and no notice of the execution proceedings has been issued to the petitioner.

2. In the present case the judgment and decree being executed is of 14.12.2023 and the execution petition was filed on 06.07.2024 within a period of two years of passing of the decree as such at the time of initial filing of the execution petition notice to the JD was not required to be served and the Court has rightly not issued the notice but this is a case where



provisions of Order 21 Rule 34 of CPC are attracted as suit was for specific performance of agreement to sell and a sale deed of property of the JD was to be executed by the Court in favour of decree holder in order to execute the decree. For that purpose the liability of the decree holder is to place on record a draft sale deed and the Court is required to issue a notice of the draft sale deed to the JD granting him an opportunity to raise objections on the draft sale deed within stipulated period but perusal of the proceedings undertaken by the Executing Court clearly shows that no notice as required under Order 21 Rule 34 of CPC has been served upon JD.

3.. The Hon'ble Apex Court in the case of '***Rajbir vs. Suraj Bhan & Anr.***' 2022 INSC 247 has categorically ruled that provisions of Rule 34 of CPC are mandatory. Para 14 of the judgment lays downs as under :-

“14.The complain of the appellant is sought to be buttressed with reference to the difference in the survey numbers as noticed by us earlier. While it is true that the court must be diligent in the matter of executing a decree passed after adjudication which spans a long period of time, it is also the duty of the court to execute the decree as it is and in accordance with law. Order 21, Rule 34 cannot be diluted. and any such departure from the provisions can have highly deleterious consequences not merely qua the parties in question but also persons who come to deal with those parties in future. It can lead to further litigation. It is all of this which is sought to be avoided by bringing clarity and precision and execution must be in conformity with the adjudication contained in the decree.”

4. As such, the proceedings conducted by the Executing Court are in violation of mandatory provisions of Order 21 Rule 34 of CPC. All the



CR No. 6895 of 2025

3

proceedings after the stage of submitting the draft sale deed are in violation of provisions of Rule 34 Order 21 CPC.

5. Therefore, the impugned order is set aside and the petition filed by the petitioner is allowed and Executing Court is directed to afford an opportunity to the petitioner to submit his objections to the draft sale deed and till then sale deed executed by Court in favour of decree holder be not given effect to.

**(VIRINDER AGGARWAL)
JUDGE**

25.09.2025

P.Singh

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No