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

(125)

CR-2830-2025

Date of decision: - 27.05.2025

Krishna

...Petitioner

Versus

Pawan Aggarwal and another

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Rajesh Lamba, Advocate, and  
Mr. Abhinav Kaushik, Advocate,  
for the petitioner.

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**VIKAS BAHL, J. (ORAL)**

1. Present civil revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 06.02.2025 (Annexure P-6) passed by the Civil Judge (Junior Division), Faridabad to the extent of imposition of condition that the JD shall clear the arrears of rent to the tune of Rs.4,87,339/- as security subject to the outcome of the decision of the application under Order 9 Rule 13 CPC (Annexure P-2).

2. Learned counsel for the petitioner has submitted that the petitioner had filed a suit for specific performance on 15.12.2020. It is submitted that the said civil is pending in the month of July, 2025. It is further submitted that the judgment and decree dated 17.02.2024 against



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the present petitioner is an ex-parte judgment and decree and against the same, an application under Order 9 Rule 13 CPC has already been filed, which is pending adjudication. It is stated that in the said circumstances, the direction given by the executing Court to pay the entire arrears of rent to the tune of Rs.4,87,339/- pending against the petitioner, as security is illegal. It is further stated that the petitioner has a meritorious case both on specific performance as well as in the application under Order 9 Rule 13 CPC.

3. This Court has heard learned counsel for the petitioner and has perused the paper-book and finds that the impugned order is in accordance with law and 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 the respondents-Pawan Aggarwal and Munni Devi had filed a petition under Section 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 against the present petitioner and in the same, vide judgment dated 17.02.2024, the following relief was granted to said respondents No.1 and 2:-

*“10. Hence, keeping into consideration the above discussion and the evidence available on the record. This court is of the considered view that the petitioner has convincingly proved this case by leading material evidence before this court. In view of the cogent and convincing evidence by the petitioner on the record with regard to the rate of rent and non-payment of rent on behalf of the respondent and in view of the above discussion, this petition filed by the petitioner succeed and the same is accepted with costs. **The respondents are directed to be evicted from the tenant premises on the ground of***



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*non-payment of rent w.ef. 15.11.2019 to 14.10.2021. The respondents are directed to handover the vacant possession of the same to the petitioner within a period of two months from the date of this judgment, failing which the petitioner would be at liberty to seek the assistance of the court to take the possession of the premises. Memo of cost be prepared accordingly. Original unexecuted documents be returned to parties concerned as per rules after retaining the photocopy of the same on the file. The amount lying under disbursed if any be dispersed as per rules. Someone files if any be detached and sent to the concerned quarter. File after due compliance be consigned to record room.*

*Pronounced in open court.*

*(Nidhi)*

*17.02.2024*

*Rent Controller*

*Faridabad. UID No. HR00543”*

A perusal of the above would show that apart from directing the present petitioner to hand over the vacant possession, it was also observed that the petitioner had not paid the rent from 15.11.2019 to 14.10.2021. Since the said judgment and decree was ex-parte, the petitioner had filed an application under Order 9 Rule 13 CPC for setting aside the ex-parte decree. It is not in dispute that there is no interim order in favour of the petitioner in the said proceedings and there is no order staying the execution of the judgment and decree dated 17.02.2024 from any higher Court. The present petitioner however filed an application for stay of the execution proceeding under Order 21 Rule 26 CPC read with Section 151 CPC before the executing Court.

5. The executing Court, vide the impugned order dated 06.02.2025, had granted the stay subject to a condition that the JD shall clear the arrears of rent to the tune of Rs.4,87,339/- pending against him

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to the decree holder as security and the same were made subject to the outcome of the decision of the application under Order 9 Rule 13 CPC. It was specifically observed that in case the petitioner/JD failed to deposit the arrears of rent on the next date of hearing, then the stay of the execution proceedings would come to an end automatically and the execution proceedings would proceed further. The next date in the case was admittedly fixed as 28.04.2025. On a pointed query raised by this Court, learned counsel for the petitioner has fairly submitted that the petitioner had not deposited money on 28.04.2025.

6. A perusal of the provisions of Order 21 Rule 26 CPC would show that the executing Court has the power to grant stay for a reasonable time in case of sufficient cause, so as to enable the judgment debtor to apply to the Court which passed the decree (etc.) to get an order of stay of execution. A perusal of the said provision would show that the same does not give any vested right to the judgment debtor to get the execution stayed but is an enabling power of the executing Court to grant stay only for a reasonable time and which is to be exercised/granted only on a sufficient cause being shown. In the present case, the said enabling power under Order 21 Rule 26 CPC has been exercised by the Executing Court in favour of the petitioner and the Executing Court has stayed the execution of the proceedings in spite of the fact that there is no stay on the execution of the judgment and decree dated 17.02.2024 either by any higher Court or in the proceedings under Order 9 Rule 13 CPC. The condition imposed by the executing Court requiring the petitioner to pay



the entire arrears of rent and the same having been made subject to the decision of the application under Order 9 Rule 13 CPC, is reasonable, inasmuch as, once a decree has been passed in favour of the respondent/landlord, then, the petitioner cannot be permitted to continue to stay in the premises in question without even paying the rent which has been specifically found due from the petitioner vide judgment and decree dated 17.02.2024. The impugned order is thus legal and deserves to be upheld.

7. The Hon'ble Supreme Court in the case of "*Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil*", reported as (2010) 8 *Supreme Court Cases* 329, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227, but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts

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subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

8. Keeping in view the above, this Court is of the opinion that the impugned order does not call for any interference by this Court while exercising its powers under Article 227 of the Constitution of India and accordingly, the impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is dismissed.

**May 27, 2025**  
*naresh.k*

**( VIKAS BAHL )**  
**JUDGE**

Whether reasoned/speaking?	Yes
Whether reportable?	Yes