



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(120)

CR-5455-2025 (O&M)

Date of Decision:-13.08.2025

KEWAL SINGH

... Appellant

Versus

SUKHWINDER KAUR AND ANOTHER

... Respondents

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Chetan Bansal, Advocate,
for the petitioner.

VIRINDER AGGARWAL, J. (Oral)

1. This Civil Revision under Article 227 of the Constitution of India has been filed assailing the order dated 04.07.2025 vide which, learned Executing Court has ordered issuance of warrants of sale of attached property without following the due procedure as enshrined in Order 21 of Code of Civil Procedure and without deciding the objections of the petitioner.
2. Brief facts shows that petitioner-JD appeared in execution proceedings and filed objection petition on 28.08.2023 and on next date, he absented from proceedings. His counsel pleaded no instructions and the learned Executing Court without issuing any notice to JD, after his counsel pleaded no instructions, proceeded JD *ex parte* and warrants of attachment of the property of JD was ordered to be issued. After attachment of the property of JD, proceedings under Order 21 Rule 66 of CPC were conducted and notice was issued to JD. The notice could not be served as is clear from the order dated 16.01.2024 that JD was reported to be residing in foreign country and sale warrant were ordered to be issued. When the execution was pending for sale warrants on 18.07.2024, JD again appeared and moved an application for setting



aside the *ex parte* proceedings. After calling for reply and hearing arguments, the application was allowed vide order dated 15.02.2025 and *ex parte* proceedings were set aside subject to deposit of cost of Rs.2,000/- with DLSA concerned. In subsequent orders, it has not been recorded by the learned Executing Court as to if the costs were paid or remained unpaid but presence of both the parties was marked and matter was adjourned for compromise between the parties and then JD through counsel suffered a statement that he is ready to compromise the matter and matter was taken up in the Lok Adalat but the parties failed to appear before the Lok Adalat and matter was again referred to the Executing Court. Executing Court vide order dated 04.07.2025 has recorded that application filed by JD No.1 under Order 41 Rule 21 with Section 151 CPC for re-hearing the appeal moved before the Appellate Court has been filed with the sole motive of delaying the execution petition, so the property was ordered to be put to sale.

3. Now, it is clear from the orders dated 15.02.2025 that *ex parte* proceedings against JD were set aside. When *ex parte* proceedings against JD was set aside then all proceedings after JD was proceeded against *ex parte* from 14.09.2023 come to naught and the proceedings were required to be taken up from 14.09.2023, when the execution petition was pending for arguments on objection petition but the learned Executing Court without deciding the objection petition has straightway issued the sale warrants of the attached property of JD. Even the attachment of the property has taken place after JD was proceeded against *ex parte* and those proceedings have been set aside vide order dated 15.02.2025, so the learned Executing Court has certainly committed a jurisdictional error. Issuance of notice of this revision petition would certainly



entail more delay in deciding the execution petition, so the revision petition of the petitioner is allowed and impugned order is set aside.

4. Learned Executing Court is directed to dispose of objection petitions of the petitioner expeditiously and to conduct the proceedings of the execution petition expeditiously so that decree holder can reap fruits of the decree.

5. Accordingly, the revision petition is allowed and dispose of. Pending miscellaneous application(s), if any, are also disposed of accordingly

(VIRINDER AGGARWAL)
JUDGE

13.08.2025
S. Pathania

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No