



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(114)

CR No. 6433 of 2025 (O&M)

Date of Decision : 12.09.2025

Om Parkash

...Petitioner

Versus

M/s Capital Builders

...Respondent

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Mahesh Inder Preet, Advocate for
Mr. Punit Malik, Advocate for the petitioner.

Amarinder Singh Grewal, J.

1. The present Civil Revision Petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 04.09.2025 passed by the learned Additional District and Sessions Judge, Gurugram, whereby in an appeal preferred by the petitioner against the dismissal of his application under Order IX Rule 13 of the Code of Civil Procedure (hereinafter referred to as 'CPC'), only notice of motion was issued to the respondent and no interim relief was granted in respect of the conditional warrants issued against the petitioner in Execution Petition No. EXE/37/2021.

2. The brief facts of the case are that the respondent—M/s Capital Builders through its proprietor instituted a Civil Suit No. 136 dated 03.08.2013 against the petitioner—Om Parkash for recovery of ₹13,12,000/- along with interest @ 18% per annum. The said suit was decreed *ex parte* vide judgment and decree dated 29.08.2018 passed by the learned Civil Judge (Junior Division), Gurugram, whereby the respondent-plaintiff was held entitled to recover ₹12,00,000/- with interest @ 9% per annum.



3. The petitioner-defendant thereafter filed an application under Order IX Rule 13 of the CPC, as well as under Order IX Rule 7 read with Section 151 of the CPC seeking setting aside the *ex parte* decree. The said application came to be dismissed vide order dated 19.08.2025 (Annexure P-4). Aggrieved thereby, the petitioner preferred a Civil Miscellaneous Appeal under Order XLIII Rule 1(d) of the CPC before the learned District Judge, Gurugram.

4. In the meantime, in the execution proceedings, the decree-holder despite having been granted repeated opportunities, failed to file the list of property of the judgment-debtor or to submit calculations. On 22.08.2025, the learned Executing Court, upon consideration of the application moved by the decree-holder, issued conditional warrants against the petitioner. The said order is now under challenge in the present Civil Revision Petition.

5. Learned counsel for the petitioner submits that when Civil Misc. Appeal No. 230 of 2025 came up before the learned Additional District and Sessions Judge, Gurugram on 04.09.2025, the Appellate Court only issued notice of motion for 29.09.2025 and did not grant any order of stay in respect of the conditional warrants already issued against him.

6. In view of the order proposed to be passed, notice is not being issued to the respondent as it would unnecessarily delay the proceedings and also entail additional expenses for the respondent.

7. I have heard learned counsel for the revisionist-petitioner and perused the paper-book.

8. Having heard learned counsel and upon perusal of the record, this Court finds that the impugned order dated 04.09.2025 does not suffer from any jurisdictional error or perversity. The appellate Court, in exercise of its



discretion, deemed it appropriate to issue notice to the respondent without granting any interim relief at that stage. It is well settled that the grant of stay is not a matter of right but rests in the judicial discretion of the Court concerned.

9. Further, the conditional warrants dated 22.08.2025 (Annexure P-5) were issued by the learned Civil Judge (Junior Division), Gurugram in the execution proceedings. Merely because the petitioner had preferred an appeal against dismissal of his application under Order IX Rule 13 CPC does not by itself entitle him to an automatic stay of execution proceedings or of the coercive process already issued. Unless and until the appellate Court passes a specific interim order, the execution proceedings are liable to be proceeded in accordance with law.

10. Accordingly, this Court finds no merit in the prayer for setting-aside the order dated 04.09.2025 passed by the learned Additional District and Sessions Judge, Gurugram. Finding no illegality therein, the present revision petition, being devoid of merit, is hereby dismissed.

11. Pending miscellaneous application, if any, also stands disposed of.

September 12, 2025
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(AMARINDER SINGH GREWAL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No