



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

116.

CR No.6264 of 2025 (O&M)

Date of Decision:09.09.2025

Saroj through LRs

...Petitioner

Versus

M/S Sunbeam Buildtech Pvt. Limited

... Respondent

CORAM : HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. G.C Sharma, Advocate
for the petitioner (through VC).

AMARINDER SINGH GREWAL, J. (ORAL)

1. The present Civil Revision Petition under Article 227 of the Constitution of India has been filed through LRs of Saroj (hereinafter referred to as petitioners) challenging the order dated 03.09.2025 passed by the learned Civil Judge (Sr. Division), Faridabad (for short the Executing Court) in Execution Petition No. 80 of 2025, whereby their objections and application under Order XXI Rule 26 CPC have been dismissed.

2. In brief, the facts are that the respondent/decree-holder had instituted a civil suit for specific performance of an agreement to sell against Smt. Saroj (since deceased), which came to be decreed ex parte on 06.08.2022 by the learned trial Court. On 13.02.2025, the respondent-decree holder had filed execution of the aforesaid *ex parte* decree and the petitioners came to know about the aforesaid *ex parte* decree on 17.07.2025 when notice of the execution was received by them. Thereafter, they moved an application under Order IX Rule 13 CPC for setting aside the ex parte decree, which is pending consideration before the trial court. They also filed objections along with an application under Order



XXI Rule 26 CPC seeking stay of execution. The executing court dismissed the same on 03.09.2025 holding that the pendency of the application filed under Order IX Rule 13 is not a ground to stay execution and that they are always at liberty to avail the recourse of restitution under Section 144 CPC.

3. Learned counsel for the petitioners submits that petitioners have already filed the application under Order IX Rule 13 CPC seeking setting aside of the *ex parte* decree dated 06.08.2022 passed by the learned trial Court as soon as they came to know about the passing of the aforesaid decree and thus, till any order is passed on the said application by the learned trial Court, the execution proceedings must stay, as continuation of execution proceedings would frustrate the very purpose of filing of application under Order IX Rule 13 CPC and irreparable loss and injury would be caused to them, which cannot be compensated in any manner.

4. I have heard learned counsel for the petitioners and have perused the paper book and finds that there is no force in the argument raised by learned counsel for the petitioners. In the absence of an explicit stay order from a higher court, the Executing Court is mandated to proceed with execution proceedings, as filing of an appeal or application under Order IX Rule 13 CPC does not automatically halt said proceedings. Furthermore, provisions of Order XXI Rule 26 CPC enable the judgment debtor to approach the court, which passed the decree; or to any Court having appellate jurisdiction in respect of the decree or the execution thereof. Meaning thereby, the Executing Court can stay the execution of a decree, upon sufficient cause being shown, only to enable the judgment debtor to apply to the Court by which the decree was passed or to any Court having appellate jurisdiction and once such a procedure has been adopted, it is bound to continue with the proceedings unless and until the decree is stayed



by the Court to which the judgment debtor has approached. In the present case, the petitioners have approached the same Court under Order IX Rule 13 CPC, which has passed the decree and there is no stay order passed in their favour by the said Court and thus, this Court finds no error in the impugned order dated 03.09.2025 passed by the learned Executing Court and the same is affirmed.

5. Resultantly, the instant revision petition is dismissed.

6. Needless to say, the observations made hereinabove by this Court shall not be construed to be an opinion on the merits of the pending application under Order IX Rule 13 CPC.

(AMARINDER SINGH GREWAL)
JUDGE

September 09, 2025

Pankaj*

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No