



CR-6860-2025 (O&M)

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

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CR-6860-2025 (O&M)
Reserved on:- 15.10.2025
Pronounced on:-27.10.2025

Pawan Kumar

....Petitioner

VERSUS

State of Haryana and Others

....Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Parminder Singh, Advocate for the petitioner.

Mr. Vaibhav Sharma, AAG Haryana for the respondents.

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MANDEEP PANNU J.

1. The petitioner has preferred the present revision petition under Article 227 of the Constitution of India, assailing the order dated 18.08.2025 passed by the learned Executing Court, whereby the execution application filed by the petitioner for enforcement of the decree for mandatory injunction dated 21.10.2021, as affirmed in appeal on 24.07.2025, has been dismissed.

Brief Facts

2. Brief facts of the case are that the petitioner—decree holder filed a suit for mandatory injunction before the learned Civil Judge (Jr. Divn.), Indri, seeking a direction to the respondents to remove encroachment made over his land comprised in Rectangle No. 17, Killa Nos. 21/2/2, 22/2, 23/2, 24/2, and 25/2/1, as per the demarcation report dated 06.06.2017. It was alleged that respondents No. 1

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to 3 (PWD Department) had constructed a road by enclosing a portion of the petitioner's land, and subsequently, respondent No. 4 – M/s Best Foods Ltd. through its Chairman, further encroached upon another part of the same land. The learned trial Court, after appreciating the evidence and the site plan, decreed the suit for mandatory injunction vide judgment and decree dated 21.10.2021, directing respondents No. 1 to 4 to remove the encroachment. The appeal preferred by respondents No. 1 to 3 was dismissed by the learned Additional District Judge-I, Karnal vide judgment dated 24.07.2025, whereas respondent No. 4 did not challenge the decree and it thus attained finality as against him.

3. The petitioner thereafter filed an execution application seeking enforcement of the aforesaid decree. Respondents No. 1 to 3 contested the same by filing a reply, taking the plea that the appeal against the trial Court's decree was still pending. The said objection was dismissed by the executing Court. Respondent No. 4 did not file any objection.

4. Subsequently, respondents No. 1 to 3 moved an application referring to insolvency proceedings initiated before the National Company Law Tribunal (NCLT) against respondent No. 4 and contended that since a liquidator had been appointed, no transfer of assets of the corporate debtor could be made.

5. The executing Court, vide impugned order dated 18.08.2025, dismissed the execution petition, holding that due to the appointment of a liquidator, the possession of the land could not be transferred to the petitioner.

Submissions of learned counsel for the parties

6. Learned counsel for the petitioner contends that the impugned order is illegal and without jurisdiction, as the executing Court has travelled beyond the decree. It is submitted that the NCLT proceedings do not adjudicate civil

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ownership rights of the petitioner's land and that no material was ever placed by respondent No. 4 to show any stay or bar against removal of encroachment. It is argued that the decree has attained finality and is required to be executed in its true spirit.

7. On the other hand, learned State counsel submits that in view of the appointment of a liquidator by the NCLT, the petitioner should have approached the said Tribunal for necessary permission to execute the decree.

Findings of this Court

8. I have heard learned counsel for the parties and perused the record with their able assistance.

9. The learned Executing Court, while dismissing the execution application vide order dated 18.08.2025, proceeded on the assumption that since proceedings under the Insolvency and Bankruptcy Code, 2016 (for short, "the Code") were pending before the National Company Law Tribunal (NCLT), Chandigarh, against respondent No. 4 – M/s Best Foods Ltd., and a Resolution Professional had been appointed, there was an "operation of stay" under the Code which prevented transfer of assets or delivery of possession to the decree-holder.

10. A perusal of the order dated 02.02.2018 passed by the NCLT in C.P. (IB) No. 117/Chd/CHD/2017 shows that the same was passed merely on an application filed by one M/s Hajura Singh Bhim Singh, an operational creditor, for initiation of corporate insolvency resolution proceedings. The said order only records the admission of the petition and appointment of a Resolution Professional. Importantly, no express declaration of moratorium under Section 14 of the Code is found in the said order, nor does it record that the land in question forms part of the assets of the corporate debtor.



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11. Even assuming, for the sake of argument, that a moratorium under Section 14 of the Code was in effect, its operation is confined to the assets of the corporate debtor. The decree under execution pertains to land which, as per the demarcation report dated 06.06.2017, has been conclusively held to belong to the petitioner, and the decree dated 21.10.2021, affirmed in appeal on 24.07.2025, directs removal of encroachment therefrom. The said decree neither concerns recovery of money nor transfer or alienation of the corporate debtor's property.

12. Thus, the protection under Section 14 IBC cannot extend to property of a third party merely because the corporate debtor has unlawfully occupied it. The NCLT has no jurisdiction to adjudicate title or possession disputes relating to third-party property, as such matters fall squarely within the domain of the civil court.

13. The reliance placed by the learned AAG for respondents on the principle underlying the judgment of the Hon'ble Supreme Court in *Anand Rao Korada, Resolution Professional v. M/s Varsha Fabrics (P) Ltd. & Ors., 2020 AIR (SC) 222*, is entirely misconceived and misplaced. In that case, the Hon'ble Supreme Court held that once the NCLT admits a corporate insolvency petition and declares a moratorium under Section 14, civil courts and High Courts are barred from passing orders affecting the assets of the corporate debtor. The said decision was rendered in the context of property belonging to the company under insolvency, over which the High Court of Orissa had ordered an auction.

14. The facts of the present case are fundamentally different. Here, the subject land has been found by competent civil courts to belong to the petitioner, and the decree merely directs removal of encroachment by respondents, including respondent No. 4. The property under execution does not form part of the assets of



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the corporate debtor, nor does its possession or restoration to the lawful owner interfere with any insolvency resolution process pending before the NCLT. Consequently, the ratio of *Anand Rao Korada's case (supra)* has no application to the facts of the present case.

15. The learned Executing Court, therefore, acted wholly without jurisdiction and committed a patent error in refusing to execute a valid and subsisting decree by travelling beyond its scope. The reasoning that “no transfer of assets can be made” owing to the pendency of insolvency proceedings is legally untenable, as the execution sought is not for transfer of assets but for removal of encroachment and delivery of possession of the decree-holder's land.

Conclusion

16. In view of the aforesaid discussion, the impugned order dated 18.08.2025 passed by the learned Executing Court is set aside. The execution petition filed by the decree-holder is restored to its original number. The Executing Court is directed to proceed with the execution in accordance with law and to ensure compliance of the decree dated 21.10.2021, as affirmed by the first appellate court on 24.07.2025.

17. The present revision petition is allowed.

18. Pending application(s), if any, also stand disposed of.

October 27, 2025

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(MANDEEP PANNU)

JUDGE

Whether speaking/non-speaking : Speaking

Whether reportable : Yes/No