

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

**Civil Revision No. 5059 of 2023(O&M)
Date of Decision: 01.09.2023**

Dhanu Ram (since deceased) through his legal heirs.

...Petitioner

Versus

Vikash Tandon & Ors.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Sandeep Kumar Bokolia, Advocate
For the petitioner.**

KARAMJIT SINGH, J.

1. The present revision petition has been filed by the petitioners/JD against the order dated 31.07.2023 (Annexure P-1) passed by the Executing Court of Additional Civil Judge (Sr.Divn.), Faridkot whereby execution application bearing No. 1687 of 2013, which was dismissed for non prosecution on 06.02.2018, has been wrongly restored.

2. The counsel for the petitioner while assailing the impugned order, *inter alia*, submits that the Executing Court restored the aforesaid execution application on the basis of order dated 29.08.2022 passed by Coordinate Bench of this Court in civil revision No. 326 of 2022 (Annexure P-5). The counsel for the petitioner further submits that while passing the impugned order the Executing Court misrepresented the aforesaid order (Annexure P-5) whereby only the application filed by respondent No.1 for

restoration of the execution petition, which was dismissed in default, has been restored.

3. I have considered the submissions made by counsel for the petitioner and gone through the impugned order as well as the order (Annexure P-5).

4. From the perusal of order (Annexure P-5) dated 29.08.2022 coupled with copy of civil revision No. 326 of 2022, it is apparent that the said civil revision was filed by respondent No.1 for setting aside the order dated 16.07.2019 whereby the application filed by the petitioner seeking restoration of execution application, was dismissed. Further, from a perusal of the opening paragraph of order Annexure P-5 it also appears that the Coordinate Bench of this Court dealt with a matter relating to an application filed by respondent No.1 for restoration of execution application, which was dismissed in default and was dismissed by the Executing Court. Even from the perusal of operating part of order Annexure P-5 it is evident that aforesaid order under challenge was set aside by the Coordinate Bench while accepting revision petition No. 326 of 2022.

5. In the given circumstances, there was no occasion for the Executing Court concerned to restore the execution application filed by respondent No.1 on the basis of order Annexure P-5 as has been done by the Executing Court while passing the impugned order Annexure P-1.

6. Consequently, the impugned order is hereby set aside with direction to the Executing Court to dispose of the application filed by respondent No.1 Vikas Tandon for restoration of execution which was dismissed in default vide order dated 06.02.2018, in accordance with law after permitting respondent No.1 to produce the concerned transfer deed and after hearing both the parties.

7. The revision petition is allowed in the aforesaid terms.
8. Keeping in view the circumstances mentioned above, this petition is being disposed of without issuing any notice to the opposite party. If respondents are summoned to contest this litigation, they will have to incur huge expenses to defend this case. However, liberty is granted to the respondents that if they feel dissatisfied with this order, they may move an application to recall the same.

01.09.2023

Jiten

**(KARAMJIT SINGH)
JUDGE****Whether speaking/reasoned : Yes/No****Whether reportable : Yes/No**