



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

127

**CR-5366-2024 (O&M)
Date of Decision : 24.09.2024**

SINDER KAUR Petitioner

VERSUS

NIRBHAI SINGH AND ANOTHER Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sunny K. Singla, Advocate for the petitioner.
Mr. Mohd. Salim, Advocate for caveator-respondent No.1.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 30.07.2024 (Annexure P-11) passed by the learned Civil Judge (Junior Division), Malerkotla vide which the execution application, which was dismissed in default on 25.04.2018, has been restored.
2. Brief facts relevant to the present *lis* are that respondent No.1 herein filed a suit for specific performance and permanent injunction against respondent No.2 herein. Vide judgment and decree dated 28.07.2005 passed by the Trial Court, the suit was decreed. Pursuant to the said judgment and decree, execution application was filed by respondent No.1 on 07.01.2006. Objections were filed by the present petitioner. The said objections were allowed on 30.03.2010 by the Executing Court concerned and a fresh list of properties was to be furnished. Respondent No.1 herein challenged the order

dated 30.03.2010 vide which the objections filed by the petitioner were allowed. The appeal was allowed by the learned Additional District Judge, Sangrur holding that the Executing Court concerned, as and when a fresh execution application is filed or the earlier execution application, which was dismissed in default, is restored, shall decide the objections afresh in accordance with law. On 24.07.2010 the execution application was dismissed for want of prosecution. On 01.12.2014 a second application was filed for execution. On 25.04.2018 the said second application for execution was also dismissed in default. On 24.05.2021 restoration application was filed which application was allowed vide impugned order dated 30.07.2024. Meanwhile, admittedly the objections filed by the petitioner herein were dealt with by the Executing Court concerned and the same were dismissed. Learned counsel for the petitioner has candidly admitted that he does not have instructions as to whether the said order now dismissing the objections has been challenged in an appeal.

3. Learned counsel for the petitioner would contend that the execution application has been restored after a delay of three years and one month and that the same being clearly barred by limitation, ought not to have been allowed.

4. *Per contra*, learned counsel for caveator-respondent No.1 would contend that the petitioner herein has no *locus standi* to file the present petition as the objections filed by her have admittedly been dismissed and the order dismissing the objections has not been challenged in an appeal.

5. Heard.

6. In the present case on a pointed query by the Court as to what is the *locus standi* of the petitioner herein to challenge the order restoring the execution application, since the judgment debtor (JD) has not come forward and especially in view of the fact that the objections filed by her have already been dismissed by the Executing Court concerned and no appeal has been preferred against the order dismissing the objections till date (as per the instructions received by the learned counsel for the petitioner), learned counsel for the petitioner has only argued that the execution application could not have been restored as the same was barred by limitation. Learned counsel for the petitioner has chosen not to address any argument qua the *locus standi* of the petitioner herein to file the present petition. Admittedly the objections filed the present petitioner herein already stand dismissed by the Executing Court concerned. Learned counsel for the petitioner is further unable to apprise the Court as to whether any appeal has been preferred till date challenging the order dismissing the objections. In view thereof, the petitioner would have no *locus standi* to challenge the impugned order whereby the execution application has been restored.

7. In view of the above, I do not find any merit in the present revision petition. The same being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

24.09.2024
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No