

17.11.2025
rc/ct.no.06
Item No.16

C.O. No. 3889 of 2025
Kuldip Singh
Versus
Mahindar Singh @ Mahendra Protap Singh & Ors.

Mr. Uttiya Ray
Ms. Anima Maiti ...for the petitioner

1. This is an application challenging the order dated September 01, 2025 passed by the learned Civil Judge (Senior Division), Burdwan. By the order impugned, the learned court refused an application for stay of the execution on the ground that an appeal was pending. Admittedly an appeal was filed sometime in 2024, but there is no order of stay of execution at this stage. It further appears that an application under Section 47 of the Code of Civil Procedure filed by the petitioner was rejected upon contested hearing and a misc. appeal therefrom is also pending.
2. Under such circumstances the learned executing court had no other option but to proceed with the execution keeping in view the decision and/or direction of the Hon'ble Supreme Court in the case of ***Periyammal (Dead) vs. V. Rajamani and Another (2025) 9 SCC 568***. The relevant portions of the said judgment are quoted below:-

“42.12. The executing court must dispose of the execution proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay.

42.13. The executing court may on satisfaction of the fact that it is not possible to execute the decree without police assistance, direct the police station concerned to provide police assistance to such officials who are working towards execution of the decree. Further, in case an offence against the public servant while discharging his duties is brought to the knowledge of the court, the same must be dealt with stringently in accordance with law.

42.14. The Judicial Academies must prepare manuals and ensure continuous training through appropriate mediums to the court personnel/staff executing the warrants, carrying out attachment and sale and any other official duties for executing orders issued by the executing courts.”

(emphasis supplied)

76. *The mandatory direction contained in para 42.12 of Rahul S. Shah [Rahul S. Shah v. Jinendra Kumar Gandhi, (2021) 6 SCC 418 : (2021) 3 SCC (Civ) 569] requiring the execution proceedings to be completed within six months from the date of filing, has been reiterated by this Court in its order in Bhoj Raj Garg v. Goyal Education & Welfare Society [Bhoj Raj Garg v. Goyal Education & Welfare Society, (2025) 9 SCC 618] .*

77. *In view of the aforesaid, we direct all the High Courts across the country to call for the necessary information from their respective district judiciary as regards pendency of the execution petitions. Once the data is collected by each of the High Courts, the High Courts shall thereafter proceed to issue an administrative order or circular, directing their respective district judiciary to ensure that the execution petitions pending in various courts shall be decided and disposed of within a period of six months without fail otherwise the Presiding Officer concerned would be answerable to the High Court on its administrative side. Once the entire data along with the figures of pendency and disposal thereafter, is collected by all the High Courts, the same shall be forwarded to the Registry of this Court with individual reports.”*

3. The power of superintendence under Article 227 of the Constitution of India is restricted to adjudicating whether the learned court acted illegally or with material irregularity or in a perverse manner. In the instant case, the application challenging the executability of the decree was rejected by the court with reasons. The execution case is pending since 2018. The suit was decreed on July 11, 2017. The petitioner approached this Court by filing a first appeal which was dismissed as not maintainable. Title appeal was filed in 2024 along with an application for condonation of delay. An application of stay has also been filed.
4. Under such circumstances, the decree holder cannot wait unendingly for execution of the decree which was passed in his favour sometime in 2017. Moreover, the learned executing court cannot also wait for years together and/or until disposal of the stay application as the petitioner has not been able to obtain even an interim stay of the execution, by taking speedy steps.
5. Under such circumstances, the application is dismissed.
6. The remedy of the petitioner is before the appeal court for necessary orders and the petitioner is at

liberty to approach the learned appeal court for expeditious hearing of the pending applications.

7. There shall be no order as to costs.
8. Parties are to act on the serve copy of this order.

(Shampa Sarkar,J)