



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

1. CR-2760-2025

Dharampal

... Petitioner

Versus

Arun Khanna

... Respondent

2. CR-2756-2025

Dharampal

... Petitioner

Versus

Arun Khanna

... Respondent

Date of decision : 07.05.2025

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms.Amrita Nagpal, Advocate
for the petitioner.

VIKAS BAHL, J.(ORAL)

1. The present order would dispose of two civil revision petitions.
2. CR-2760-2025 has been filed by the petitioner for seeking direction to the Ist Appellate Court to decide the pending civil appeal no.CA-130-2021 in a time bound manner.
3. CR-2756-2025 has been filed by the petitioner for setting aside the order dated 29.04.2025 (Annexure P-1) vide which the objections filed



by the petitioner-judgment debtor have been dismissed.

4. It is not in dispute that the respondent had filed suit for declaration and mandatory injunction along with prayer of permanent injunction against the petitioner in the year 2018. Vide judgment dated 29.11.2021 after due contest, the decree was passed in favour of the respondent and the relevant portion of the same is reproduced hereinbelow:-

“The defendant is directed to hand over the possession of the suit property within 3 months of passing this judgment fail which the plaintiff is at liberty to proceed as per law. It is further made clear that this judgment does not have any effect on rights of any third party. Suit is hereby decreed with no order to cost. Decree sheet be prepared accordingly. File be consigned to the record room after due compliance.”

5. An appeal against the said judgment was filed on 24.12.2021. Surprisingly for a period of more than 3 years, no prayer was made for considering the stay application. The zimni order dated 26.11.2024 as well as 28.01.2025 would show that it is in fact the counsel for the petitioner (appellant before the Ist Appellate Court) who had sought adjournment. The said zimni orders are reproduced hereinbelow:-

“Present: Shri Pardeep Sharma Advocate for appellant/defendant.

Shri Mohinder Singh Advocate for respondent/plaintiff.

*Trial court record received. Arguments not advanced. **Adjournment sought by counsel for the appellant** on the reason that he is busy in some other urgent case, so he could not prepared the present case. Heard. Request allowed. On request of counsel for the appellant, case is adjourned to*



16.12.2024 for arguments. Trial court record be sent back and requisitioned one day prior to the date fixed.

Date of Order: 26.11.2024.”

“Present: Shri Pardeep Sharma Advocate for appellant/defendant.

Shri Mohinder Singh Advocate for respondent/plaintiff.

*Trial court record received. Arguments not advanced. **Adjournment sought by learned counsel for the appellant**-defendant on the reason that he was out of station yesterday, so he could not prepared the present case. Heard. Request allowed. On request, case is adjourned for 18.02.2025 for arguments. Trial court record be sent back and requisitioned one day prior to the date fixed.*

Date of Order: 28.01.2025.”

6. A perusal of the zimni order dated 18.03.2025, which is the second last zimni order annexed along with the present petition, would show that even on the said date, arguments were not addressed and an adjournment was sought by the learned counsel for the parties on the ground that they were not ready with the case and on joint request, the case was adjourned to 16.04.2025. On 16.04.2025, which is the last zimni order annexed along with the present petition, counsel for the present petitioner (appellant before the Ist Appellate Court) prayed for adjournment and the case was adjourned to 02.05.2025. Zimni orders dated 18.03.2025 and 16.04.2025 are reproduced hereinbelow:-

“Present: Shri Pardeep Sharma Advocate for appellant/defendant.



*Shri Mohinder Singh Advocate for
respondent/plaintiff.*

*Trial court record received. Arguments not
advanced. Adjournment sought by learned counsel for the
parties on the reason that they are not ready with the present
case and requested that this case may kindly be adjourned.
Heard. Request allowed. On joint request of learned counsel
for the parties, case is adjourned for 16.04.2025 for arguments.
Trial court record be sent back and requisitioned one day prior
to the date fixed.*

Date of Order: 18.03.2025.”

xxx xxx xxx

*“Present: Shri Pardeep Sharma Advocate for
appellant/defendant.*

*Shri Mohinder Singh Advocate for
respondent/plaintiff.*

*Trial court record received. Arguments not
advanced. Adjournment sought by learned counsel for the
appellants on the reason that he could not prepared the case,
so he is unable to argue in the present case. Heard. Request
allowed. On request of counsel for the appellant, case is
adjourned to 02.05.2025 for arguments. Trial court record be
sent back and requisitioned one day prior to the date fixed.*

Date of Order: 16.04.2025.”

7. The zimni order dated 02.05.2025 has not been annexed with the present petition. A perusal of the abovesaid zimni orders would show that even the counsel for the petitioner before the Ist Appellate Court is not arguing the matter and is seeking adjournments and thus it does not lie in the mouth of the petitioner to file a petition under Article 227 of the Constitution of India to issue direction to the Ist Appellate Court to



expeditiously decide the appeal or stay application, which the petitioner has not pressed for the last three years. It is not for this Court to run the roster of the Ist Appellate Court. Accordingly, CR-2760-2025 deserves to be dismissed and is accordingly dismissed.

8. In CR-2756-2025 challenge has been made to order dated 29.04.2025 vide which the objections filed by the judgment debtor have been dismissed. The Executing Court had observed that against the judgment and decree dated 29.11.2021, there is no stay in favour of the petitioner and thus, the Executing Court is bound to execute the decree and accordingly, the warrants of possession had been issued. The decree was passed on 29.11.2021 and the petitioner had every occasion to press for stay against the same and admittedly, there is no stay against the judgment and decree dated 29.11.2021, although a period of more than 3 years has elapsed. It is a matter of settled law that the Executing Court cannot go beyond the decree and thus, the order dated 29.04.2025 passed by the Executing Court is in accordance with law and deserves to be upheld.

9. The Hon'ble Supreme Court in the case of "***Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil***", reported as **(2010) 8 Supreme Court Cases 329**, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High



Court's power under Article 227, but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

10. Keeping in view the abovesaid facts and circumstances, the impugned order is in accordance with law and deserves to be upheld and the present petition i.e. CR-2756-2025 being meritless, deserves to be dismissed and is accordingly dismissed.

(VIKAS BAHL)
JUDGE

May 07, 2025.
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No