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

CR-3123-2025

Date of decision: 21.05.2025

Sunita Rani

...Petitioner

Versus

Vikas Singla

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Arkash Mani Garg, Advocate for the petitioner.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 14.05.2025 (Annexure P-8) passed by the Civil Judge (Junior Division), Dhuri, vide which an application filed under Order 21 Rule 26 of CPC has been dismissed and salary of the petitioner has been attached.

2. Learned counsel for the petitioner has submitted that an application filed by the petitioner for restoration of the appeal which was dismissed in default, is pending and has prayed that till the time the said application for restoration is pending, the execution proceedings be stayed. It is submitted that the impugned order vide which the prayer for staying the execution proceedings has been dismissed is illegal and deserves to be set aside.



3. This Court has heard learned counsel for the petitioner and has perused the paper book and finds that the impugned order has been rightly passed and the present revision petition being meritless, deserves to be dismissed for the reasons stated hereinafter.

4. It is not in dispute that the respondent-plaintiff/decreed holder had filed a suit for recovery of Rs.1,87,500/- inclusive of interest, in the year 2022 and the same was partly decreed on 15.03.2024 and the following relief was granted in the said case:-

“RELIEF

25. In view of my finding on the above issues, the suit of the plaintiff succeed in part and is hereby decreed partly whereby a decree for recovery of Rs. 1,50,000/- being the principal amount alongwith the interest thereon @ 9% per annum from the date of advancement of loan i.e. 20.02.2020 till the date of the decision of the suit is hereby passed in favour of the plaintiff and against the defendant with the costs of the suit. Future interest from the date of the decree of the suit till realization of the entire amount, is also hereby awarded in favour of the plaintiff and against the defendant @ 6 % per annum on the principal amount of Rs.1,50,000/-. Decree sheet be prepared accordingly. File be consigned to the record room after due compliance.

Pronounced in open Court

(Neha Goel),

Addl. Civil Judge(Sr.Div.),

Dhuri.

Unique Identification Code PB-0360”

5. The petitioner had filed an appeal which came up for hearing on 18.04.2024 and in the said appeal, notice was issued but since the petitioner had not paid the requisite Court fees, thus, the First Appellate



Court had directed the appellant to make good the deficiency in the Court fees on the date fixed. Thereafter, on 06.08.2024, the case was adjourned and a direction was given to the appellant to make good the deficiency in the Court fees. In spite of specific orders passed by the First Appellate Court on 18.04.2024, 06.08.2024 and even thereafter on 20.11.2024, 05.12.2024, 24.12.2024, 10.01.2025, 29.01.2025, the deficiency in the Court fees had not been made good. Order dated 29.01.2025 is reproduced hereinbelow:-

“Present: Shri Romar Kapoor, Advocate, for appellant.

Deficiency of Court fee has not been made good by the appellant. Ld. counsel for the appellant has sought an adjournment. Accordingly, appellant is directed to make good deficiency of Court fee till 10.02.2025.

(Munish Singal)

January 29, 2025

District Judge, Sangrur

(Unique Identification No.PB0053)”

6. On 10.02.2025, neither the petitioner, who was the appellant before the First Appellate Court, had appeared nor any one on her behalf had appeared and accordingly, the appeal was dismissed in default for want of prosecution. The order dated 10.02.2025 is reproduced hereinbelow:-

“Present: None for the appellant.

Today, neither appellant nor on her behalf has come present despite repeated calls since morning. It is already 4:00 p.m. Consequently, the instant appeal is dismissed-in-default for want of prosecution. File be consigned to the record room.

Pronounced:

(Munish Singal)

February 10, 2025

District Judge, Sangrur

(Unique Identification No.PB0053)”



7. It is the case of the petitioner that an application for restoration dated 30.04.2025, after a delay of more than 2 months and 20 days from the date of order dated 10.02.2025, was filed. On a pointed query raised by this Court, learned counsel for the petitioner has fairly submitted that as per his instructions, notice has not been issued in the said application and the same is pending for 29.05.2025. Be that as it may, from the above, it is apparent that as on date, neither the appeal filed by the appellant has been restored nor the appellant has made good the deficiency in the Court fees in spite of seven specific orders having been passed by the First Appellate Court.

8. Instead of pursuing her appeal diligently and depositing the Court fees, the present petitioner in order to delay the execution proceedings had filed an application for stay of the execution proceedings. The Executing Court, vide order dated 14.05.2025, had rightly observed that since the main appeal had been dismissed for want of prosecution and there is nothing to show that the same has been restored, thus, no civil appeal is currently pending. It had further been observed that since there is no stay in favour of the appellant against the judgment and decree dated 15.03.2024, thus, the Executing Court is bound to execute the judgment. The said order has been rightly passed. It is a matter of settled law that the Executing Court cannot go beyond the decree. Moreover, the decree in the present case is a money decree.

9. Reliance placed upon Order 21 Rule 26 CPC by the learned counsel for the petitioner is completely misconceived, inasmuch as, the said provision is an enabling provision empowering the Executing Court, upon sufficient cause being shown, to stay the execution only for some time



(reasonable time) in order to enable the Judgment Debtor to apply to the Court by which the decree was passed or to the Appellate Court for stay of the execution. The said provision does not give a vested right to the Judgment Debtor to seek stay of the proceedings before the Executing Court but is only an enabling provision. The said enabling provision is to be invoked by the Executing Court only to grant stay of execution and is also to be exercised for a short duration (reasonable time), upon sufficient cause being shown. In the facts of the present case, it is apparent that after the passing of the judgment dated 15.03.2024, the present petitioner had sufficient time to file an appeal and also did file an appeal which came up for hearing on 18.04.2024. Thereafter, seven dates were taken by the appellant for making good the deficiency in the Court fees and thereafter, the case was dismissed for default. In the said circumstances, if the Executing Court has found that there is no sufficient cause to grant stay, then, the same is in accordance with law and the said view cannot be faulted with.

10. 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.

11. Keeping in view the abovesaid facts and circumstances, this Court is of the opinion that the impugned order does not call for any interference by this Court while exercising its powers under Article 227 of the Constitution of India and accordingly, the impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

21.05.2025*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**