

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****122****CR-3384-2025 (O&M)****Date of decision: 29.05.2025****Baldev Singh and another****...Petitioner(s)****Vs.****Ram Parkash Sharma and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. S.K.Choudhary, Advocate
for the petitioners.

*********NIDHI GUPTA, J.**

The present civil revision petition has been filed by the petitioners/judgment debtors under Article 227 of the Constitution of India for setting aside the impugned order dated 07.04.2025, whereby the property of the petitioners has been attached and put to sale, despite the fact that the First Appeal has been dismissed on 09.05.2025 (Annexure P-4) and no opportunity has been granted to petitioners for filing 2nd appeal.

2. It is *inter alia* submitted by learned counsel for the petitioners that although the first appeal filed by the petitioners has been dismissed by the learned Additional District Judge, Pathankot, however property of the petitioners could not have been attached without granting opportunity to the petitioners to file second appeal. It is submitted that in the facts and circumstances of the case, and in the interest of justice,



impugned order could not have been passed. Moreover, the petitioner is ready and willing to make the payment as decreed. Despite this the Executing Court has proceeded against the petitioner by way of attachment and sale of his property. Ld. Executing Court has even ignored the fact that the said property which has been attached, is already mortgaged with Jammu & Kashmir Bank for Rs.60 lacs. Therefore, litigation thereof would only multiply, if the sale is allowed to be proceeded. It is accordingly prayed that the present civil revision petition be allowed and the order dated 7.4.2025 be set aside, in view of the fact that the petitioners are ready and willing to pay the decretal amount.

3. No other argument is made by Id. counsel for the petitioner.

4. Heard learned counsel and perused the case file in great detail.

5. I find no merit in the submissions made on behalf of the petitioner. Brief facts of the case are that the respondents/plaintiffs/decree holders had filed a Civil Suit for recovery of Rs.65,29,543/- against the petitioners along with future interest. Vide judgment and decree dated 27.10.2022 (Annexure P-1), passed by learned Civil Judge (Senior Division), Pathankot, Suit of the respondents was partly decreed for recovery of Rs.35,50,000/- along with interest @ 9% per annum. The first appeal filed by the petitioner has been dismissed by the learned Additional District Judge, Pathankot vide judgment and decree dated 09.05.2025 (Annexure P-4). In the meantime, respondents/decree



holders had filed present Execution Petition on dated 25.10.2023, alongwith an application under Order 21 Rule 64 and 66 CPC dated nil (Annexure P-3) for proclamation of sale by public auction of the attached property of the judgment debtor in which proceedings, property of the petitioners is now attached.

6. It has been submitted by learned counsel for the petitioners that petitioner is now willing to pay the decretal amount. However, the said statement of the petitioner does not inspire confidence of this Court. It is to be noted that vide order dated 08.08.2023, the learned District Judge, Pathankot had ordered stay of the decree dated 27.10.2022 however, subject to condition that arguments in the main appeal would be addressed in 6 months and further subject to deposit of security bonds by the petitioner to the tune of Rs.70 lacs. However, the said bonds were not deposited by the petitioners. The petitioners had filed application before the learned District Judge, for granting extension/one more opportunity to furnish security bonds to the tune of Rs.70 lacs within 2 months as directed vide order dated 08.08.2023. The said application was rejected by the learned District Judge, vide order dated 3.4.2024.

7. The petitioners had then approached this Court by way of C.R. No. 3138 of 2024 seeking setting aside of order dated 03.04.2024. It is to be noted that in the said Civil Revision petition, this Court in order dated 28.10.2024 had observed that pendency of the said C.R. would not in any manner delay the execution proceedings. Thereafter, vide



order dated 28.01.2025 (Annexure P-2), this Court had disposed of the said CR No. 3138 of 2024 on the undertaking of the petitioner that *“petitioner would not take any further date and would be fully prepared to argue the case and has thus submitted that the said appeal be ordered to be heard and decided as expeditiously as possible”*; and with a request to the first appellate Court to decide the appeal, stated to be listed for hearing on 25.02.2025 as expeditiously as possible, preferably, within 6 weeks from 25.02.2025.

8. Admittedly, bond of ₹70,00,000/- has not been furnished by the petitioners till date. It is also not denied that there is an equitable mortgage dated 03.07.2018 whereby the entire property has been mortgaged in favour of Jammu and Kashmir Bank, Pathankot for Rs.60 lacs. Thus, there is nothing on record to indicate that petitioners have sufficient funds to make the payment of decretal amount to the decree holder.

9. Therefore, no ground is made out to interfere in the impugned order dated 07.04.2025. The present civil revision petition, accordingly, stands **dismissed**.

10. Pending application(s) if any also stand(s) disposed of.

29.05.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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