

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****233****CR-3277-2022 (O&M)****Date of decision: 08.07.2025****Pritam Singh and another****...Petitioner(s)****Vs.****Jangir Kaur and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Jai Bhagwan and Mr. Sanjeev Kumar, Advocates
for the petitioners.

Ms. Nisha Rana, Advocate for the respondents.

NIDHI GUPTA, J.

Present Civil Revision Petition has been filed by the judgment-debtor, under Article 227 of the Constitution of India, for setting aside the order dated 30.07.2022 (Annexure P-4) passed by Ld. Additional Civil Judge Sr. Division Sri Muktasar Sahib, in Execution No. 109 of 2018 titled as "Jagir Kaur versus Harnam Kaur" arising out of judgment and decree dated 02.05.2007 and 29.04.2008 which are under challenge in RSA No. 2152 of 2008 pending for final adjudication after admission in which operation of the impugned judgment has been stayed by this Court.

2. Learned counsel for the petitioner *inter alia* submits that although stay has been granted by this Court, yet during the pendency of the Second Appeal filed by the petitioner, the respondents have filed execution in which vide impugned order dated 30.07.2022 (Annexure P-4),



warrants of possession has been issued in favour of respondent No.1. Learned counsel submits that the decree passed in favour of respondent No.1 is pending adjudication before this Court in RSA No. 2152 of 2008 in which after admission, stay of operation of the impugned judgment has been granted in favour of the appellant/petitioner. It is contended that in this situation, warrants of possession could not have been issued in favour of respondent No.1. Thus, the order dated 30.07.2022 (Annexure P-4) is illegal, arbitrary, and without appreciating the facts, circumstances and evidence on record. It is accordingly prayed that the present Revision Petition be allowed; and impugned order be set aside.

3. Learned counsel for respondent No.1 submits that no doubt, stay of operation of the impugned judgment and decree had initially been granted in favour of the petitioner; however, execution was filed in the period when the said stay was not operational as RSA No. 2152 of 2008 filed by the petitioner had been dismissed in default vide order dated 10.10.2018. It is submitted that accordingly, the impugned order suffers from no error; and the present Civil Revision Petition deserves to be dismissed.

4. No other argument is raised on behalf of the parties.

5. I have heard learned counsel for the parties and perused the case file in great detail. I find no merit in the submissions made on behalf of the respondents.

6. Perusal of the record reveals that respondent No.1/plaintiff had filed a suit for declaration that plaintiff is owner of the land in dispute.



Trial Court decreed the suit of respondent No.1 vide judgment and decree dated 02.05.2007. Appeal filed by the petitioner was dismissed by the learned first appellate Court vide judgment and decree dated 29.04.2008; pursuant to which the petitioner filed RSA No. 2152 of 2008 which is pending adjudication before this Court.

7. In the said RSA No. 2152 of 2008, while issuing notice of motion vide order dated 21.07.2008 (Annexure P-1), it was also directed that *“in the meanwhile, operation of the impugned judgment shall remain stayed.”* However subsequently, the said RSA No. 2158 of 2008 was dismissed in default vide order dated 10.10.2018 (Annexure P-2). On an application filed by the petitioner, the said RSA No. 2152 of 2008 was restored vide order dated 23.05.2019 (Annexure P-3) in the following terms:

“Consequently, the application is allowed, and the appeal is restored to its previous number and stage, with it now to come up for hearing on 02.08.2019, to be listed as per roster.”

8. In the interregnum, execution petition was filed by respondent No.1 on 25.10.2018. However, the impugned order has been passed on 30.07.2022 which is after the restoration of RSA No. 2152 of 2008 by this Court vide order dated 23.05.2019 (Annexure P-3), whereby the appeal was ordered to be restored to *“its previous number and stage.”* Needless to say, this implies that the stay of operation of impugned judgment and decree granted by this Court vide order dated 21.07.2008, was restored on 23.05.2019. In this situation, vide impugned order dated 30.07.2022



warrants of possession could not have been issued against the petitioner. It is further pointed out by Id. Counsel for the petitioner that Coordinate Bench of this Court vide order dated 02.09.2024 passed in RSA No. 2152 of 2008 has directed that *“operation of the order dated 21.07.2008 earlier passed by this Court, is hereby extended till pendency of the present appeal.”*

9. In view of the above undisputed facts, present Civil Revision Petition is **allowed**; and the impugned order dated 30.07.2022 (Annexure P-4) is hereby set aside.

10. Pending application, if any, stands disposed of.

08.07.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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