



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

(116)

CR-6024-2025 (O&M)
Date of Decision:-15.09.2025

Bhanwar Singh

... Petitioner

Versus

Pardeep Kumar

... Respondent

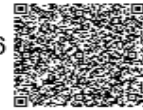
CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Rakesh Bakshi, Advocate
for the petitioner.

VIRINDER AGGARWAL, J. (Oral)

1. The petitioner has invoked the supervisory jurisdiction of this Court under Article 227 of the Constitution of India, seeking to assail the order dated 18.08.2025 (Annexure P-3) passed by the learned District Judge, Yamuna Nagar, whereby the application moved by the petitioner-appellant under Order XLI Rule 5 read with Section 151 Code of Civil Procedure (in short 'CPC') for stay of the judgment and decree in the pending civil appeal was declined, and further prays for suspension of the execution proceedings arising therefrom.

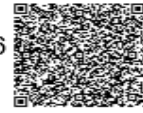
2. A suit for specific performance of the agreement to sell dated 07.04.2014, instituted by the respondent-plaintiff, came to be decreed by the learned Civil Judge (Junior Division), Sub-Division Bilaspur. Aggrieved thereby, the petitioner-appellant preferred an appeal challenging the said judgment and decree, accompanied by an application for condonation of



delay in the institution of the appeal as well as a prayer seeking leave to prosecute the appeal as an '*indigent person*'.

3. The learned District Judge, Yamuna Nagar, vide the impugned order, declined to grant stay of the judgment and decree under challenge in appeal. The said order has been impugned by the petitioner on the premise that, if the execution proceedings are permitted to attain finality and possession of the suit property is delivered to the decree-holder, the statutory right of appeal itself would stand rendered nugatory and infructuous. It is the grievance of the petitioner that the learned District Judge erred in dismissing the stay application primarily on the ground of delay in filing the appeal, despite the fact that such delay stood condoned by a judicial order; once condonation had been granted, the delay ought not to have weighed with the Court in the consideration of interim relief.

3.1 The petitioner further asserts that the learned District Judge failed to appreciate that possession of the suit property had not yet been delivered, and thus the balance of convenience lay in protecting the appellant's rights till the appeal was decided on merits. The record, however, demonstrates that although the appeal was presented on 31.05.2023, it remained pending for adjudication of the application for exemption from payment of Court fee, and the requisite Court fee was deposited only on 08.07.2025. The appeal was admittedly time-barred and the delay stood condoned only on 26.05.2025. During the interregnum, the decree had already been substantially executed by the Executing Court; the sale deed in favour of the decree-holder had been executed and registered, and only symbolic possession of the suit property was pending delivery. Upon considering the matter, the learned District Judge concluded that the



petitioner had failed to establish a *prima facie* case or demonstrate a balance of convenience in his favour. On the contrary, it was observed that any further stay of the execution proceedings would seriously prejudice the decree-holder, who, despite having complied with the obligation of tendering the balance sale consideration, would be deprived of the fruits of a lawful decree and suffer irreparable loss.

4. Having regard to the fact that the suit property already stands subjected to execution proceedings and has been alienated by way of sale in favour of a third-party auction-purchaser, whose purchase has since been duly confirmed, only the formality of effecting delivery of symbolic possession remains outstanding. At this juncture, any order of stay of further execution would not only occasion irreparable prejudice to the auction purchaser, a *bona fide* third-party whose rights stand crystallized, but would also result in grave inconvenience to the decree-holder, inasmuch as the decree has been substantially executed and only a ministerial act of recording symbolic possession remains.

4.1 It is pertinent to note that the application for stay of execution was not earlier taken up, as the appeal itself could not be entertained for want of payment of Court fee and, further, because the memorandum of appeal was barred by limitation. The requisite court fee came to be deposited belatedly on 08.07.2025, by which time the decree had been nearly executed in entirety and third-party rights had already intervened. In such circumstances, the learned First Appellate Court, in declining to stay the execution, cannot be said to have acted with material illegality, irregularity, or in failure of jurisdiction.



4.2 Moreover, the apprehension of the petitioner/judgment debtor stands adequately safeguarded under the statutory scheme, for in the eventuality that the appeal succeeds, the petitioner would be entitled to restitution and restoration to the original position under the mandate of Section 144 of the CPC.

4.3 Accordingly, upon a comprehensive appraisal of the factual matrix and the legal submissions advanced, this Court is of the considered view that the present revision petition does not disclose any patent illegality, jurisdictional error, or perversity in the impugned order so as to warrant interference in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. The petition, being bereft of merit and devoid of any sustainable ground, therefore, stands dismissed *in limine*.

5. However, observations made herein above may not to be construed as opinion on the merits of the case. Same are purely confined to the present controversy and deliberations.

6. In view of the fact that the principal matter has been adjudicated and disposed of on merits, it necessarily follows that any pending interlocutory or miscellaneous application(s), if surviving, do not require a separate determination. Accordingly, all such application(s), if any, shall also be deemed to have been disposed of in terms of this judgment.

15.09.2025
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

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