

**CR-6779-2025**

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

(122)

CR-6779-2025

Date of Decision:-23.09.2025

Hardev Singh and Another

.....Petitioners

Versus

Beant Singh and Others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Vardaan Seth, Advocate,
for the petitioners.

AMARINDER SINGH GREWAL, J. (Oral)

1. This present revision petition has been filed under Article 227 of the Constitution of India seeking setting aside of the impugned orders dated 14.08.2025 and 02.09.2025 (*Annexure P-19 & P-20* respectively) passed by the learned Civil Judge (Junior Division), Dhuri, in Execution Petition No. 155 of 2019 (*Beant Singh v. Hardev Singh & Anr.*), vide which the executing court dismissed objections filed by the judgment-debtor (petitioner No.1 herein), and proceeded to issue warrants of possession.

2. Brief facts of the case are that alongwith appeal against judgment & decree dated 03.01.2019 passed by learned Civil Judge (Junior Division), Dhuri, the petitioners had filed an application under Order XLV Rule 5 CPC before learned Additional District Judge, Sangrur, for stay of

**CR-6779-2025**

the operation of the aforesaid judgment and decree dated 03.01.2019. On 13.02.2019, learned Additional District Judge, Sangrur, granted an interim stay of operation of the decree, which was subsequently extended vide orders dated 10.04.2019, 09.05.2019 and 03.07.2019. However, on 23.07.2019, the case was transferred to another Court, thereafter the order regarding interim relief was silent and the case remained adjourned for arguments on main appeal as well as on the application under Order XLV Rule 5 read with Section 151 CPC, though, the stay was never vacated by passing any speaking order. Due to non-extending the interim stay on 23.07.2019, the learned executing Court finally dismissed the objections, filed by present petitioner No.1-Hardev Singh, on 14.08.2025 and again on 02.09.2025, passed order dismissing objections of legal heirs of deceased-JD No.2 and issued warrants of possession.

3. Learned counsel for the petitioners contends that the executing court committed legal error in holding that the interim order “automatically stood vacated” merely because in the zimni order dated 23.07.2019, the interim order is not extended. It is submitted that once an interim stay is granted, it continues in operation until it is either vacated by a speaking order of the court which is granted or otherwise set aside by a court having jurisdiction to do so. Mere silence in subsequent routine orders cannot be construed as a speaking order vacating the interim stay. It is further submitted that the executing court ought not to have proceeded to execute the decree and issue warrants of possession without clarifying the fact that the stay had been validly vacated or not.

**CR-6779-2025**

4. I have heard the learned counsel for the petitioners and carefully perused the paper book.

5. In view of the order proposed to be passed, notice is not being issued to respondents as it would delay the proceedings besides entailing additional expenses to the respondents.

6. The principal question which arises for adjudication in the present case is whether the interim order dated 13.02.2019, passed by the learned First Appellate Court staying the operation of the judgment and decree dated 03.01.2019, continued to remain operative and protect the rights of the petitioners in absence of any specific speaking order expressly vacating or modifying the same, notwithstanding that the subsequent orders of the Appellate Court were silent; and, if so, whether the executing court acted in excess of jurisdiction and committed a manifest error of law in proceeding with the execution and issuing warrants of possession of the suit property on the erroneous assumption that the interim protection had “automatically” stood vacated.

7. An interim order granting stay of a decree or the operation of a judgment is an interim order which remains in force until the court vacates it. The interim is not dissipated by mere non-mentioning in the subsequent zimni orders. To treat mere silence of the court as if it meant that the interim order stood vacated would defeat the purpose of granting such interim relief. Interim relief is granted to safeguard the rights of parties until their case is finally decided. Unless there is a clear and speaking order from the learned Appellate Court taking away or modifying that interim relief, it

**CR-6779-2025**

must be presumed to continue. In *High Court Bar Association, Allahabad v. State of Uttar Pradesh, 2024 INSC 150*, the Hon'ble Supreme Court categorically held that an interim order, once granted by a competent court, does not lapse by mere efflux of time or by the omission of the court to expressly extend it on subsequent dates, unless such interim relief was itself made time-bound at the stage of grant. It was emphasized that judicial orders operate until they are consciously modified, vacated, or merged in the final decision, and silence of subsequent proceedings cannot be construed as automatic vacation.

8. It is a settled principle that if an interim order is to be vacated or modified, the court must pass a speaking order giving reasons for such vacation or modification. The requirement to give reasons ensures that a party who has been granted interim relief is not unfairly deprived of it without the court properly considering the matter. A mere omission by the court to repeat the interim order on subsequent dates cannot be treated as a substitute for a judicial conclusion that the order stands vacated. Unless and until there is a clear and reasoned order has been passed for vacating the stay

9. In the present case, record shows that the prayer for interim stay in the application under Order XLV Rule 5 CPC was allowed on 13.02.2019; the stay was thereafter extended on 10.04.2019, 09.05.2019 and 03.07.2019. The reasons for the earlier extensions do not matter here. What is important is that the interim order was clearly extended on several occasions, and even after the case was transferred and heard on many dates,

**CR-6779-2025**

the stay application was still pending and was never finally decided. The application under Order XLV Rule 5 CPC was never decided on merits; importantly, no order is placed on record which clearly and expressly vacated the earlier interim stay. The findings of learned Executing Court, is reproduced as under:

“Now, coming to the other objections raised by Judgment Debtor No. 1. The learned counsel appearing on behalf of the said Judgment Debtor has submitted that the Judgment Debtors have preferred a RSA against the Preliminary Decree passed by the Court, which is pending in the Hon'ble High Court of Punjab and Haryana. It is further submitted that the Judgment Debtors have also filed an Appeal against the Final Decree in question, which is presently pending before the learned Additional District Judge, Sangrur. It is submitted that during the pendency of the said Appeals, the Execution Petition in hand cannot be proceeded further and is thus, liable to be dismissed. Opposing the said plea of Judgment Debtor No. 1, the learned counsel for the Decree Holder has submitted that no stay order has been passed in favor of the Judgment Debtors by the Hon'ble High Court or by the learned Appellate Court, Sangrur and thus, the Execution Petition in hand is liable to be proceeded further.

8. *Admittedly, in the Civil Suit in question, both Preliminary and Final Decrees have been passed by the Court against Judgment Debtors No. 1 and 2. Admittedly, an Appeal against the Preliminary Decree passed by the Court is presently pending in the Hon'ble High Court and the Appeal against the Final Decree passed by the Court is presently pending in the learned Court of Additional District Judge, Sangrur. Admittedly, the Hon'ble High Court has not passed*

**CR-6779-2025**

any order staying the operation of the Preliminary Decree dated 23.10.2015. Apparently, the Court of learned Additional District Judge, Sangrur initially, passed an Order staying the operation of the Final Decree dated 03.01.2019, but, later, has not extended the said order.

9. *In the opinion of this Court, merely because the Judgment Debtors have challenged the Preliminary and Final Decree passed by the Court before the higher Courts, it is no ground to entirely stall the proceedings of the Execution Petition in hand, in the absence of any order of the Hon'ble High Court/learned Appellate Court, Sangrur directing the proceedings of the case in hand to be stayed."*

10. A perusal of the reasoning portion clearly demonstrates that the learned executing Court proceeded only on the basis that because the subsequent zimni order was silent about the interim stay, therefore the stay was not "extended" and stood automatically vacated. No order is shown on record regarding the vacation of stay by learned First Appellate Court. *The power to vacate an interim order is judicial and must be exercised as a judicial act.* The executing court's finding that the stay "automatically" stood vacated is therefore legally unsustainable.

11. It is also necessary to consider the role and duty of the executing court in such circumstances. The executing court has a duty to check before acting whether the decree it wants to execute is under any existing judicial restriction, such as a stay or an appeal. If the court knows, or reasonably believes, that a higher court has stayed the decree, it should not go ahead with execution until it is clear how long and to what extent the stay applies. If there is any doubt, the court should ask the appellate court

**CR-6779-2025**

for clarification or wait until the matter is decided. Going ahead with execution when a valid stay is still in place is a clear legal error.

12. The application under Order XLV Rule 5 CPC remained pending for the decision. The executing court therefore had no legitimate judicial basis to conclude that the stay had been vacated. The executing court's order dated 08.05.2019 acknowledges that the decree had been stayed by the appellate court. That acknowledgment is an admission that at least at that stage the executing court knew of an interim stay. It follows that before taking steps in execution the executing court should have satisfied itself as to whether the stay continued or not. The mere observation in order dated 14.08.2025 that the stay had not been "extended" was an insufficient and unsustainable basis to proceed in the execution petition.

13. Keeping in view the above discussion, the present Civil Revision Petition is *allowed*, without commenting upon the merits of the case and the Impugned Order dated 14.08.2025 (Annexure P-19) and the Impugned Order dated 02.09.2025 (Annexure P-20) passed by the learned Civil Judge (Jr. Division), Dhuri, in EXE No. 155 of 2019 are hereby set aside. The learned Appellate Court is directed to decide the application under Order XLV Rule 5 CPC, filed by the petitioners within a period of three months from today and till then, the proceedings in the execution petition, shall remain stayed.

14. The learned Executing Court is directed to recall any warrants of possession issued in the execution proceedings under the impugned

**CR-6779-2025**

orders and to keep the execution proceedings in abeyance, till the order to be passed by the learned Appellate Court.

15. The Registry is directed to forward a copy of this order to the learned First Appellate Court and learned Executing Court for compliance.

16. All pending application(s), if any, stand disposed of accordingly.

(AMARINDER SINGH GREWAL)
JUDGE

23.09.2025

Shubham

Whether speaking/reasoned:-	Yes/No
Whether Reportable:-	Yes/No