



(CR-8028-2025)

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

(120)

CR-8028-2025 (O&M)

Date of Decision:-11.11.2025

AJIT SINGH

... Petitioner

Versus

BALBIR SINGH

... Respondent

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Jarnail Singh Saneta, Advocate,
for the petitioner.

VIRINDER AGGARWAL, J. (Oral)

1. The present civil revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 22.09.2025 (Annexure P-1), vide which, the learned Civil Judge (Senior Division) Kurukshetra, has dismissed the application filed by the petitioner for staying the operation and execution of the *ex parte* judgment and decree till the decision of application under Order IX Rule 13 of Code of Civil Procedure (CPC).

2. Perusal of the impugned order shows that the learned Civil Judge has approached the application as if the application has been moved in execution petition as he has declined to exercise the jurisdiction vested in the Court on the grounds that the same is not covered by the provisions of Order XXI Rule 26 of CPC, whereas, the application moved by the petitioner was clearly not before the Executing Court but was moved before the Court in proceedings for setting *ex parte* judgment and decree has been initiated and in that file, this application for staying the execution of decree was filed but the Court decline to exercise the jurisdiction vested in the Court by recording reasons as contained in Para 8 of the impugned order, which is reproduced as under:-

*“Entire discussion above shows that already detailed finding given
by this Court in connecting file of execution and it has already been*



concluded that mere filing of application under Order 9 Rule 13 of CPC does not ipso facto means that ex parte judgment and decree has lost its sanctity, value and authenticity and pendency of an application under Order 9 Rule 13 of CPC, per se, is not an automatic bar to the continuation of execution proceeding. Further, as per learned counsel for respondent, application to stay the proceeding of execution shall be lie before the Executing Court under Order 21 Rule 26 of CPC but this Court is not convinced with the said arguments because abovesaid provisions only speaks about stay of execution by the Executing Court for a reasonable time, to enable the judgment debtor to apply to the court by which the decree was passed for an order to stay execution. In this way, provisions of Order 21 Rule 26 of CPC is clear that present application is maintainable.”

3. Now, since the application for setting aside *ex parte* judgment and decree has been filed by the petitioner and the same is pending adjudication and even the issues has been framed by the Court and in case during pendency of that application, the decree is executed. The application filed by the petitioner for setting aside *ex parte* judgment and decree would be rendered infructuous, so in order to protect the interest of the petitioner, the Court was required to exercise the jurisdiction vested in the Court, as such, the order passed by learned Civil Judge (Senior Division), is not sustainable. The execution of judgment and decree is stayed till the decision of application under Order IX Rule 13 of CPC subject to petitioner furnishing of adequate security undertaking to pay the decreetal amount along with entire interest to the satisfaction of learned Civil Judge, Senior Division, Kurukshetra within a period of 15 days.

4. Accordingly, the instant petition stands disposed of.

5. Pending miscellaneous applications, if any, are also disposed of.

(VIRINDER AGGARWAL)
JUDGE

11th November, 2025
S. Pathania

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No