



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

(135)

CR-8578-2025 (O&M)
Date of Decision: -08.12.2025

Parkashwati (since deceased) through her LR

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Gaurav Mohunta, Senior Advocate with
Mr. Gaurav Gogna, Advocate
for the petitioner.

VIRINDER AGGARWAL, J. (Oral)

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 15.09.2025 (Annexure P-1), whereby the learned Additional Civil Judge (Senior Division), acting as the Executing Court, dismissed the execution petition. The revision petition is specifically directed against the reliance placed by the Executing Court on the report of the Local Commissioner dated 11.09.2025 (Annexure P-7), without affording the petitioner any opportunity to file objections or be heard in relation thereto. The petition seeks appropriate relief for setting aside the impugned reliance and quashing the report, on the ground that the petitioner was denied a fair opportunity of being heard, which is a fundamental procedural requirement.



2. The present revision petition has been filed on the grounds that the petitioner is the legal heir of the deceased Parkashwati, the decree-holder in the judgment and decree dated 03.06.1989 passed in CS-3920-1987 titled Parkashwati v. State of Haryana and others, whereby the defendants were restrained from interfering with the possession of the suit property namely, a plot measuring 200 square yards, demarcated by points 'A, B, C & D' in the site plan, situated within the *abadi* of village Kharkhoda.

2.1. In February 2022, dirty water overflowing from a drain located on the eastern side of the suit property obstructed the decree-holder's entry. Despite a request to the Municipal Committee to remove the obstruction, their delay caused the roof of the room on the property to collapse. The decree-holder expended approximately ₹6 lakhs to procure repair materials. Subsequently, when the decree-holder attempted to undertake reconstruction, the respondents demolished the construction without any prior notice, in blatant violation of the injunction contained in the judgment and decree dated 03.06.1989.

2.2. The petitioner filed an execution petition seeking redressal, which was contested by respondent No.3. The learned Executing Court, however, dismissed the execution petition vide the impugned order, primarily on the ground that the decree-holder had failed to place any documentary or oral evidence establishing possession prior to the demolition, and it was not proved on record that any constructed house of the decree-holder existed on the site.

2.3. The present revision petition challenges the impugned order on the following grounds:-



“The decree itself is undisputed, which conclusively establishes that the petitioner’s property existed and that a subsisting injunction was operative against the respondents/judgment-debtors. The Local Commissioner, appointed on 11.09.2025, submitted his report on 12.09.2025 stating that the petitioner was not in possession of Khasra No. 134//9/3. However, the Local Commissioner failed to ascertain the correct Khasra number corresponding to the property in respect of which the decree had been passed”.

2.4. The matter was adjourned for consideration on 15.09.2025, and on the same date, the execution petition was dismissed. Critically, the petitioner was not granted any opportunity to file objections to the report of the Local Commissioner. In light of these facts, the petitioner seeks interference with the impugned order through the present revision petition under Article 227 of the Constitution of India.

3. Learned counsel for the petitioner has contended that the impugned order is wholly unsustainable, as the learned Executing Court failed to record proper findings on the issues by appropriately appreciating the evidence on record. Instead, the impugned order reflects a manifest misreading and misappreciation of the evidence. It is submitted that a valid and subsisting decree was in existence in favor of the decree-holder/petitioner, which was blatantly violated by the respondents/Judgment-Debtors. Despite these undisputed facts, the Executing Court, by placing undue reliance solely on the report of the Local Commissioner, erroneously dismissed the execution petition. Critically, the decree-holder was not afforded any opportunity to file objections to the



report of the Local Commissioner, thereby causing a gross miscarriage of justice.

4. I have heard the learned counsel for the petitioner at length and have meticulously perused the entire paper-book.

5. Annexure P-2 is a copy of the judgment rendered in favor of the predecessor-in-interest of the petitioner/decreed-holder, which clearly establishes that the subject matter of the previous suit was not a constructed house, but solely a plot of land. The plaintiff sought a permanent injunction on the ground that the plaintiff was in possession of a plot ('Gher') measuring 200 square yards, as detailed in paragraph 1 of the plaint and demarcated by letters 'A, B, C & D' in the attached site plan. The plaintiff had acquired rights over the plot by way of adverse possession, and the defendants were allegedly threatening to dispossess her forcibly and illegally. Thus, paragraph 1 of the judgment explicitly confirms that the dispute pertained to a plot over which the plaintiff had perfected possession through adverse possession.

5.1. Further, paragraph 6 of the judgment records the deposition of Smt. Parkashwati and PW-2 Meer Singh, wherein they specifically stated that Parkashwati was in possession of the plot, that her *ghuraries* were lying there, and that she had also prepared dung-cakes and tethered cattle on the said land. These findings unequivocally establish that the previous suit concerned only the plot described by letters 'A, B, C & D' in the site plan and that no khasra number was associated with the suit property, as the plaintiff had not mentioned any such number in the plaint.

5.2. In contrast, in the present execution petition, the petitioner alleges that her house was demolished. However, there is no evidence on



record regarding when such construction was undertaken. Post-judgment and decree, there is also no evidence to show that any site plan for the construction was sanctioned by the Municipal Committee, Kharkhoda. Consequently, it could not be established that the execution petition relates to the property covered by the original decree.

5.3. To ascertain the factual position and the identity of the property, the Executing Court appointed a Local Commissioner. The Local Commissioner submitted his report on 12.09.2025, and the matter was adjourned for consideration on 15.09.2025. Had the decree-holder/petitioner had any objection to the report, he could have filed the same between 12.09.2025 and 15.09.2025 or on the date of hearing itself. No such objections were filed. The report established that the property on which the respondents had taken action was Khasra No. 134//9/3, which in the revenue record is described as a '*Gair Mumkin Johad*' (pond). The Executing Court rightly concluded that the property over which the respondents took action is not the property in respect of which the original decree was passed.

5.4. The judgments cited by the learned counsel for the petitioner **Shyam Sunder v. Mohit Kumar Lal and Others, 2025 (3) RCR (Civil) 653**, and **Kuldeep Kumar Sharma v. Randeep Rana, RCR (Civil) 314** are clearly distinguishable and not applicable to the facts of the present case. The petitioner had ample opportunity to file objections to the report of the Local Commissioner but failed to do so.

5.5. In view of the foregoing, the revision petition is devoid of merit and is accordingly dismissed.

6. However, the observations made here-in-above shall not be construed as an expression of opinion on the merits of the substantive



dispute. They are strictly confined to the limited issues arising in the present proceedings and are intended solely for the purpose of addressing the controversy at hand.

7. In view of the final adjudication of the principal matter, all pending miscellaneous applications, if any, arising out of or in connection with the present proceedings shall also stand disposed of by necessary implication. No separate or further orders are required in respect of such applications, as their adjudication is rendered infructuous in light of the conclusions reached in the main case.

08.12.2025
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

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