



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

CR-9490-2025

Date of Decision:22.12.2025

OM KUMAR

...Petitioner

Vs.

BRIJ MOHAN SHARMA THROUGH HIS LRS

...Respondent

CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Nafeesh Ahmed, 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 10.12.2025 (Annexure P-6) passed by Ld. Appellate Authority, Additional District Judge, Yamuna Nagar at Jagadhri, whereby the application for early disposal/preponement of hearing dated 10.12.2025 (Annexure P-5) of stay application under Order 41 Rule 5 CPC was dismissed.

2. The petitioner is an unsuccessful tenant against whom an ejectment order has been passed by the Rent Controller. The petitioner has preferred an appeal against the said order before the Appellate Authority. Meanwhile, the respondent/landlord has filed an execution petition, and a warrant of possession has been issued against the petitioner, returnable on 23.12.2025. The appeal, however, was adjourned by the Appellate Authority for hearing in February 2026. The petitioner filed an application seeking early hearing and disposal of the appeal, but the same was dismissed by the learned Appellate Authority vide the impugned order.

3. Aggrieved by the said order, the present revision petition has been filed. I have heard learned counsel for the petitioner.



4. The Executing Court is proceeding with the execution of the ejectment order and the warrant of possession, which were originally returnable on 20.12.2025 and, as per the information provided by the counsel for the petitioner, are now returnable on 23.12.2025. Meanwhile, the appeal filed by the petitioner, along with the application seeking stay of the ejectment order, has been adjourned to 20.02.2026. The petitioner subsequently filed an application seeking preponement and early hearing of his stay application, so that his appeal is not rendered infructuous. However, the Appellate Authority, on 10.12.2025, passed the following order:

“File put up on an application for preponement off hearing on say application on urgent basis. Heard. There is no urgency in the matter. Therefore, the application of early hearing is dismissed. File be put up on the date fixed.”

5. Perusal of the impugned order clearly demonstrates a complete lack of application of mind on the part of the learned Appellate Authority. The Appellate Authority has recorded that there is no urgency in the matter, despite the fact that the petitioner had explicitly brought to the notice of the Court that a warrant of possession has already been issued by the Executing Court and is returnable on a date earlier than that fixed for hearing of the appeal. It is evident that if the decree is executed prior to the hearing of the appeal, the petitioner’s appeal would be rendered entirely infructuous, thereby causing irreparable prejudice.

6. The observations recorded by the Appellate Authority indicate that no serious consideration was given to the specific circumstances highlighted in the petitioner’s application. The learned Appellate Authority has failed to exercise the jurisdiction vested in her under the law, resulting in the



impugned order being vitiated by illegality. Such inaction and oversight warrant the intervention of this Court in the exercise of its revisional jurisdiction.

7. In view of the foregoing, the impugned order dated 10.12.2025 is hereby set aside. The Appellate Authority is directed to hear the appeal at the earliest, after giving notice to the respondent, and to dispose of the petitioner's application for stay of execution of the decree within a period of one month from today. Meanwhile, the warrant of possession shall remain stayed, subject to the condition that the petitioner shall deposit the *mesne* profits as assessed by the Appellate Authority.

(VIRINDER AGGARWAL)
JUDGE

22.12.2025

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