

2026.PHHC-062098



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-5206-2018

Date of Decision: April 23, 2026

**SWARANJIT SINGH (NOW DECEASED) SON OF LATE BALWANT
SINGH THROUGH HIS LRS AND ORS.**

.....Petitioners

Versus

UNION OF INDIA AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ranjit Sharma, Advocate for the petitioners.

Mr. Shivoy Dhir, Sr. Panel counsel-UOI for respondent No.1.

Mr. Gunjan Mehta, Addl. A.G. Punjab.

HARKESH MANUJA, J. (ORAL)

By way of present revision petition filed under Article 227 of the Constitution of India, challenge has been laid to an order dated 28.02.2018 passed by the learned Executing Court-cum-Additional District Judge, Amritsar whereby, the execution petition preferred at the instance of petitioners-landowners was declined, being barred by limitation.

2. I have heard learned counsel for the parties and gone through the paper book.

3. In the present case, admittedly, some land owned by the petitioners forming part of the revenue estate of village Khurmania, Tehsil and District Amritsar came to be acquired. Award under Section 11 was passed by Land Acquisition Collector (for short 'the LAC') on 28.03.1978.

Thereafter, reference under Section 18 was decided on 24.12.1981 and the Regular First Appeal No. 792 of 1981 preferred against the order

passed by the Reference Court, was later decided on 01.05.1989 by this Court followed by an intra-court appeal (LPA) decided on 15.10.1996, whereby the market value was reassessed at the rate of Rs,40,000/- per acre for all kinds of land. Aggrieved thereof, the respondents-Union of India, approached the Hon'ble Apex Court and their appeals were dismissed vide decision dated 26.10.2005 passed in **Civil Appeal No.3343-3554 of 1999** titled as **“Union of India Vs. Harinder Pal Singh and Ors.”**. Subsequently, on 01.09.2016, the execution application was filed by the petitioners which were held to be time-barred by the learned Executing Court-Cum-Additional District Judge, Amritsar.

4. The issue that arises for consideration is with regard to the starting point of limitation for filing the execution petition. The statutory provision dealing with the subject i.e. Article 136 of Schedule I the Limitation Act, 1963. The same is reproduced hereunder:-

Description of suit	Period of limitation	Period of limitation Time from which period begins to run
136. For the execution of any decree (other than a decree granting a mandatory injunction) or order of any civil court	Twelve years	[When] the decree or order becomes enforceable or where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods when default in making the payment or delivery in respect of which execution is sought, takes place: Provided that an application for the enforcement or execution of a decree granting a perpetual injunction shall not be subject to any period of limitation.

5. In view of the law laid down by the Hon'ble Apex Court in **Civil Appeal No.10442 of 2011** titled as **“Shanthi Vs. T.D. Vishwanathan and Ors.”** as well as **Civil Appeal No. 3424 of 2026** titled as **“Gajanan vs. Prahlad,”** based on doctrine of merger is clearly

attracted in such cases. The relevant excerpt from **Gajanan's case** (*supra*) is reproduced hereunder:-

“16. The limitation period provided for filing for execution of any decree or order under Article 136 of the 1963 Act is 12 years, and the period of limitation begins to run from the date when the decree or order becomes enforceable. It is settled law that when an appeal is preferred against such decree, the decree of the Trial Court generally merges into the appellate decree. However, in the present case, the First Appellate Court dismissed the appeal in default on 25.11.2004.

17. While it is undisputed that there was no stay on the operation of the decree of the Trial Court during the pendency of the appeal and the said decree remained enforceable, the dismissal of such appeal, albeit in default, reset the limitation clock for filing of the execution proceedings as it had the effect of confirming the decree of the Trial Court.

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21. The upshot of this discussion is that an appeal is intrinsically a continuation of the suit and thus, even if an appeal against an order or decree of the Trial Court is dismissed on any preliminary or technical ground, such as limitation or non-prosecution, rather than the merits of the case, it still gives rise to a fresh starting point for the limitation period for execution of such order or decree. The original decree of the Trial Court cannot be deemed as “final” as long as the appeal against the same remains pending. Thus, the order of dismissal of the appeal finally disposes of the matter and confirms the decree of the Trial Court, even if such dismissal is for reason of nonprosecution.

22. The order dated 25.11.2004, which dismissed the appeal in default, was thus a “final order” as it finally confirmed the decree of the Trial Court and disposed of the appeal. Therefore, the limitation period for execution of the decree dated 03.12.1999 accrued on the date of dismissal of the appeal i.e. 25.11.2004 and the execution application

filed on 04.12.2015 was within time, if we compute the period of 12 years from 25.11.2004.

23. Courts should avoid adopting a hypertechnical approach in matters of limitation. A layperson, unfamiliar with the letter of law, may mistakenly believe that execution proceedings can only commence once an appeal against the decree has been finally disposed of. Even lawyers under a bonafide belief, may advise their clients to initiate execution proceedings only after final disposal of all appellate proceedings. In such circumstances, courts are expected to adopt a more liberal and pragmatic stance, ensuring that substantive rights are not defeated by rigid adherence to procedural rules, thereby striking a fair balance between justice and procedure.”

6. The legal principle emerging from the aforesaid discussion is that, although Article 136 of the Limitation Act, 1963 prescribes a period of 12 years for execution of a decree from the date it becomes enforceable, such period does not attain finality so long as an appeal against the decree is pending. An appeal is regarded as a continuation of the original proceedings, and even where it is dismissed on technical grounds such as default, limitation, or non-prosecution, the doctrine of merger applies and the dismissal effectively confirms the decree of the Trial Court. Consequently, the date of dismissal of the appeal constitutes a fresh starting point of limitation for the purposes of execution. Thus, the limitation period is to be reckoned from the date of such final appellate order, and not from the date of the original decree. The courts, in this context, are further enjoined to adopt a pragmatic and liberal approach in computing limitation so that substantive rights are not defeated by technicalities, particularly where parties act under a bona fide belief that execution should follow the final outcome of appellate proceedings.

7. In light of the aforesaid settled proposition of law, the execution preferred on 01.09.2016, being within 12 years from the date of dismissal of the appeals by the Hon’ble Apex Court on 26.10.2005, is clearly within limitation of the time period as prescribed under Article 136 of the Schedule of the Limitation Act, 1963.

8. In view thereof, the impugned order dated 28.02.2018 passed by the learned Executing Court cannot be sustained in the eyes of law and is hereby set aside. Consequently, the present revision petition is allowed. The execution application preferred at the instance of petitioners is ordered to be restored at its original number. The parties are thus, directed to appear before learned Executing Court on 20.05.2026. Learned Executing Court is further requested to expedite the proceedings and dispose of the same at the earliest as the acquisition in the case in hand relates to 1976-77.

9. Pending application(s), if any, shall also stand disposed of.

23.04.2026
Tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>