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

**CR-1036-2026 (O&M)
Date of Decision: 09.03.2026**

JAGSEER SINGH

..... Petitioner

*Versus***SUKHWINDER SINGH**

..... Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Lupil Gupta, Advocate
for the petitioner.

YASHVIR SINGH RATHOR, J. (Oral)

1. This revision petition has been preferred under Article 227 of the Constitution of India for setting aside the order dated 13.01.2026 (Annexure P-8), vide which the warrant for delivery of symbolic possession has been issued for 27.01.2026 by the Executing Court. This order was passed despite the fact that Civil Appeal No. 85 of 2025 (Annexure P-3), filed by the petitioner against the order dated 04.08.2025 (Annexure P-2) which dismissed the application under Order IX Rule 13 CPC for setting aside the *ex-parte* judgment and decree dated 05.01.2022 (Annexure P-1) is already pending for decision.

2. In view of the nature of the order proposed to be passed, issuance of notice to the respondent is dispensed with, as it would only delay the proceedings and cause unnecessary expenditure to the respondent.

3. I have heard the learned counsel for the petitioner/revisionist and have gone through the material on record.



4. As per version of the petitioner, the suit filed by the respondent was decreed *ex-parte* by the learned Trial Court vide judgment and decree dated 05.01.2022. The petitioner filed an application under Order IX Rule 13 CPC for setting aside the said *ex-parte* decree, which was dismissed vide order dated 04.08.2025. Against the dismissal of the application, the petitioner instituted an appeal bearing CA No. 85 of 2025, which is pending in the Court of learned Additional District Judge, Mansa. Along with the appeal, the petitioner has moved an application for staying execution of the judgment and decree passed by the Trial Court. The Appellate Court, vide order dated 09.09.2025 (Annexure P-6), issued notice upon the stay application and requisitioned the record of the court below. The appeal is now fixed for 25.03.2026.

5. The grievance of the petitioner is that while the appeal and stay application are pending before the Appellate Court, the Executing Court, vide order dated 24.12.2025 (Annexure P-7) and subsequent impugned order dated 13.01.2026 (Annexure P-8), has issued warrants for delivery of symbolic possession in favor of the decree-holder. The contention of the petitioner is that the pending appeal would be rendered infructuous if the execution proceedings are not stayed till the final decision of the Appellate Court.

6. The grievance of the petitioner/defendant is, thus, bonafide. Against the dismissal of the application under Order IX Rule 13 CPC, the petitioner has already instituted an appeal wherein notice regarding stay has been issued. Neither the stay application has been disposed of nor has the appeal been decided. In case, the judgment and decree passed by the Trial Court is implemented during the pendency of these



proceedings, the appeal will certainly become infructuous.

7. Resultantly, the present revision petition is disposed of with a direction to the learned Appellate Court to decide the application moved by the petitioner seeking stay of execution of the judgment and decree, at the earliest. Till the said application for staying the execution of judgment and decree is decided by the learned Appellate Court, the execution of the judgment and decree dated 05.01.2022, and further proceedings in Execution Petition No. 10 of 2022, shall remain stayed.

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

(YASHVIR SINGH RATHOR)
JUDGE

09.03.2026
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No