



CR No.8158 of 2017

1

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

247

Civil Revision No.8158 of 2017
Date of decision: January 20th, 2026

Jaswinder Kaur

.....Petitioner

Versus

Lakhwinder Singh and another

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Kanwal Goyal, Advocate
for the petitioner.

Mr. Mohit Garg and Mr. Gurinder Jit Singh, Advocates
for respondent No.1.

VIKAS BAHL, J. (ORAL)

1. This is a civil revision petition under Article 227 of the Constitution of India for setting aside the impugned order dated 27.10.2017 (Annexure P-9) passed by the Additional District Judge, Sangrur, whereby application filed by the petitioner has been dismissed.

2. On 22.11.2017, a coordinate Bench of this Court was pleased to passed the following order:

*Present: Mr. Kanwal Goyal, Advocate,
for the petitioner.*

*Learned counsel for the petitioner while referring to the judgment passed by Hon'ble the Supreme Court in **Vareed Jacob Vs. Sosamma Geevarghese and others, 2004 (2) RCR (Civil) 708**, contends that in this case, it has been clarified that attachment order passed under Order 38 CPC is different from order 39 or 40 CP. If, an attachment order is passed under Order 38 CPC, the same is to secure the interest of the plaintiff before the judgment is passed and*



CR No.8158 of 2017

2

*once the suit is dismissed, as per Order 38 Rule 9 CPC, the attachment would automatically ceased, if there is no stay on the same. Learned counsel has further referred to the judgment passed by the Kerala High Court in **Prakashan Vs. Clement**, 2014 (23) RCR (Civil) 330, wherein it has been held that in a suit which is dismissed for default, an attachment made before judgment shall not become revived merely by reason of the fact that the order for the dismissal of the suit for default has been set aside and the suit has been restored. Order of attachment made before judgment would cease to exist, when the suit is dismissed.*

Learned counsel further contends that in the present case also, fresh order of attachment was required to be passed.

Notice of motion for 19.03.2018.

In the meantime, execution of warrants of sale qua the property in question shall remain stayed.

22.11.2017”

3. Learned counsel for the petitioner has reiterated the said arguments and has submitted that the appeal filed by the petitioner against the order dated 02.02.2017 is still pending and the petitioner would be satisfied in case till the time the first appeal is decided, the interim order is continued.

4. Learned counsel for respondent No.1-decree holder has submitted that the First Appellate Court be directed to decide the appeal expeditiously in a time bound manner. It is further submitted that the petitioner be also directed to argue the case on the next date or the date given by the First Appellate Court. It is further submitted that the grant of interim



CR No.8158 of 2017

3

order and the continuance of the same should not be construed as an expression on the merits of the case and respondent No.1 be granted liberty to raise all pleas which are available to him to oppose the said appeal.

5. During the course of the arguments, a very fair stand has been taken by counsel for the petitioner as well as counsel for contesting respondent No.1 and on the basis of the same, the present revision petition is disposed of with the following observations/directions:

- (i) Interim order dated 22.11.2017 would continue till the time the first appeal filed by the petitioner against the order dated 02.02.2017 is decided. It is made clear that the grant of interim order as well as the continuance of the same would not be construed as an expression on the merits of the case and it would be open to the parties to raise all pleas in support of and against the appeal filed by the present petitioner.
- (ii) The First Appellate Court is directed to decide the appeal filed by the petitioner against the order dated 02.02.2017 as expeditiously as possible preferably within a period of two months from the date the appeal is next fixed.
- iii) As undertaken before this Court, counsel appearing for all the parties are directed to fully assist the Appellate Court in deciding the appeal expeditiously.
- (iv) It is made clear that this Court has not opined on the merits of the case and it would be open to the parties to raise all pleas as are available to them.



CR No.8158 of 2017

4

6. Pending applications stand disposed of.

January 20th, 2026
Puneet

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No