



CR-1108-2026

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

CR-1108-2026

Date of Decision: 19.03.2026

RAJ KUMARI

..... Petitioner

Versus

GAGANDEEP SINGH AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Sandeep Godara, Advocate for
Mr. A.P.S. Rehan, Advocate
for the petitioner.

YASHVIR SINGH RATHOR, J. (Oral)

1. This revision petition is directed against the impugned order dated 23.12.2025 (Annexure P-3) passed by the Court of Civil Judge (Jr. Divn.), Dasuya, in Execution Application No.412 of 2025 titled '*Gagandeep Singh Vs. Raj Kumari*', vide which objections dated 23.12.2025 (Annexure P-3), moved by the petitioner-JD, have been dismissed.

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. The suit filed by the plaintiff-decree holder for specific



performance of the agreement to sell dated 07.11.2019 has been decreed by the Trial Court vide judgment and decree dated 20.11.2024 (Annexure P-1) and the execution petition for enforcement of the said decree is pending. Objections have been raised by the petitioner-JD to the effect that the agreement in question is a result of fraud. The property, which is the subject matter of the agreement, was already mortgaged with Punjab National Bank and the said bank has not been impleaded as a party to the main suit and since the property was already mortgaged, the petitioner-JD had no necessity to enter into the agreement to sell, which is his sole residential house. It is also submitted that an appeal is pending before the Court of Additional District Judge, Hoshiarpur, against the judgment and decree dated 20.11.2024 and in case, the judgment and decree is enforced, the appeal will become infructuous.

4. After hearing the learned counsel for the parties, the learned executing Court dismissed the objections.

5. Feeling aggrieved, the revision petition, in hand, has been instituted. The material on file has been perused and the parties have been heard.

6. As to whether the agreement to sell was a result of fraud or not cannot be gone into during the execution proceedings, as this plea was available to the defendant-petitioner and the same had been raised in the suit. Defendant-JD had taken a plea that she had not put her signatures on the said writing, but her version has been negated. As such, similar plea of fraud cannot be raised in the execution proceedings.

7. Another objection has been raised that the property, which is

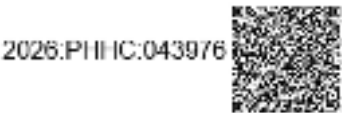


the subject matter of the agreement to sell, is under mortgage with the bank, but the bank has not been impleaded as a party in the suit. However, the executing Court has observed that the agreement to sell was executed on 07.11.2019, whereas the mortgage deed was executed on 28.11.2019, i.e., after execution of the agreement. Even otherwise, the objection regarding execution of the mortgage deed can be raised only by the bank and the plaintiff has no locus standi to allege that the bank should have also been impleaded as a party in the suit for specific performance.

8. As such, the aforesaid objections have rightly been rejected by the executing Court by appreciating the material on file in the correct perspective and the order does not suffer from any material illegality or manifest error.

9. However, an appeal has already been instituted by the petitioner-defendant against the judgment and decree dated 20.11.2024, which is pending in the Court of Additional District Judge, Hoshiarpur. During the pendency of the appeal, the plaintiff-decree holder has instituted the execution petition and in case, the judgment and decree is implemented, the appeal filed by the defendant-petitioner will be rendered infructuous and in these circumstances, the Appellate Court should either decide the appeal or decide the application under Order 41 Rule 5 CPC moved by the defendant-petitioner so that the appeal is not rendered infructuous.

10. Resultantly, the present petition is disposed of and the Appellate Court is directed to decide either the application for stay moved by the defendant-petitioner or the main appeal and till any order



on the application under Order 41 Rule 5 CPC is passed by the Appellate Court, the execution of the judgment and decree dated 20.11.2024 shall remain stayed.

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

(YASHVIR SINGH RATHOR)
JUDGE

19.03.2026
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No