



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR-2483-2026 (O&M)

Date of decision: 17.03.2026

Tejinder Bains @ Tajinder Bains and others

...Petitioner(s)

Vs.

Sukhbir Singh and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Manu K. Bhandari, Advocate with
Mr. Rohit Kataria, and Mr. Arjun Sawhni, Advocates
for the petitioners.

Mr. B.M.Vinayak, Advocate and
Mr. Kunal Vinayak, Advocate
for respondent No.1.

NIDHI GUPTA, J.

Present Civil Revision Petition under Article 227 of
Constitution of India has been filed by the defendants No. 2, 4 and
5/judgment debtors seeking setting aside of the order dated 09.02.2026
(Annexure P-26) passed in Execution Petition No. EXE/510/2025 titled as
Sukhbir Singh vs. Tajinder Bains and others; whereby 3 applications filed
by the judgment debtors, have been rejected.

2. Brief facts of the case in chronological order are as follows: -

12.08.2010: The plaintiff/respondent No.1 had filed a Civil Suit dated
12.08.2010 (Annexure P-1) for possession by way of specific
performance of Agreement to Sell dated 14.04.2007, and permanent
injunction.



08.11.2019: Vide vide judgment and decree dated 08.11.2019 (Annexure P-1), Suit of the plaintiff/respondent No.1 was decreed with costs for specific performance of Agreement.

10.09.2021: Vide judgment and decree dated 10.09.2021 (Annexure P-2), Civil Appeal filed by the defendants/petitioners was also dismissed by the learned Additional District Judge, Amritsar.

18.05.2022: Vide judgment dated 18.05.2022 (Annexure P-3), RSA-1252-2021 filed by the defendants was dismissed by this Court.

02.04.2025: Defendants had then preferred SLP (Civil) No. 11429 of 2022/CA No. 4667 of 2025, which was allowed by Hon'ble Supreme Court vide order dated 02.04.2025 (Annexure P-4).

Nil: Thereafter respondent/plaintiff/decreed holder had filed present Execution Petition No. 510 of 2025 (Annexure P-6) seeking refund of earnest money alongwith compensation of Rs.2,50,00,000/- as directed by Hon'ble Supreme Court vide the above said order dated 02.04.2025.

15.10.2025: Vide order dated 15.10.2025 (Annexure P-7), the Executing Court observed that *"Since payment has not been made within a period of four weeks as per order of Hon'ble Supreme Court of India, therefore, this Court deems it fit to issue warrants of attachment of the property as per list submitted in the present execution application by the decree holder. Matter is now adjourned to 18.11.2025."*

18.11.2025: As recorded in Zimni order dated 18.11.2025 (Annexure P-8), learned counsel for judgments debtors No. 1 to 3 had duly put in appearance before the learned Executing Court.



20.12.2025: Vide order dated 20.12.2025 (Annexure P-9), warrants of attachment of the property of the judgment debtors was received back duly executed; and sale warrants were directed to be issued as per schedule.

03.01.2026: On 03.01.2026, judgment debtors filed application (Annexure P-10) for direction to the Court Auctioneer to consider the Valuation Report of the property (Annexure P-11).

27.01.2026: Thereafter on 27.01.2026, judgment debtors filed another application (Annexure P-12) under Order XXI Rule 59 read with Section 151 CPC for stay of sale of suit property.

27.01.2026: On 27.01.2026 itself, judgment debtors had moved 3rd application (Annexure P-13) for setting aside order dated 20.12.2025; whereby sale warrants had been issued.

02.02.2026: Respondent/decreed holder had filed replies dated 02.02.2026 (Annexures P-17 to P-19) to the above said 3 applications filed by the petitioners. This fact has duly been recorded in the zimni order dated 02.02.2026 (Annexure P-20).

09.02.2026: Vide the impugned order dated 09.02.2026 (Annexure P-26), the aforesaid 3 applications of the judgment debtors have been declined while observing that same is delay tactics adopted by judgment debtors.

3. It is *inter alia* submitted by learned counsel for the petitioners that order dated 20.12.2025 (Annexure P-9); whereby sale warrants were issued, was passed in the absence of learned counsel for the



petitioners/judgment debtors. It is submitted that petitioners have gained knowledge of the sale warrants only on 03.01.2026; whereupon petitioners have immediately moved application dated 03.01.2026 (Annexure P-10) for direction to the Court Auctioneer to consider the Valuation Report of the property. Learned counsel contends that as petitioners had gained knowledge of the order dated 20.12.2025 only on 03.01.2026; therefore, the application dated 27.01.2026 (Annexure P-13) moved by the petitioners for recalling of order dated 20.12.2025, was moved within 30 days as stipulated. It is contended that as per provision of Order XXI Rule 106(3), petitioners were only required to make an application for setting aside exparte order within 30 days from knowledge of the order dated 20.12.2025, i.e. only on 03.01.2026. Therefore, application dated 27.01.2026 (Annexure P-13) filed by the petitioners for recalling of the order dated 20.12.2025, was within limitation. However, the learned Executing Court has completely misread the statutory provisions and mechanically rejected the application of the petitioners for setting aside exparte order dated 20.12.2025 solely on the ground that the same has been filed beyond a period of 30 days without appreciating the aforesaid position. It is submitted that in holding so, the Executing Court has also failed to appreciate that petitioners were duly represented through counsel before the learned Executing Court as evident from order dated 18.11.2025 (Annexure P-8). However, due to non-appearance of learned counsel for the petitioners on crucial date of 20.12.2025, which is seemingly inexplicable,



petitioners cannot be made to suffer on account of lapse on the part of learned counsel for the petitioners.

4. It is further submitted by learned counsel for the petitioners that it is settled proposition of law that the procedural laws are hand maiden of justice and cannot be construed or interpreted in such a manner where the litigant suffers irreparable loss. It is submitted that it is common knowledge that the circle rates prescribed by the government is more often than not much less than the actual market value. It is submitted that the petitioners amply demonstrated that they have left no stone unturned to sell the property so as to comply with the judgment passed by the Hon'ble Supreme Court. However, seemingly the respondents have spread a word in the property market that the property is under litigation, as a consequence thereof even genuine buyers are not inclined to buy the property.

5. Learned counsel for the petitioners further submits that still further the learned executing court gave a totally misconceived reasons while rejecting the application filed by the petitioners for stay of the sale proceedings by observing that no objections have been filed by the petitioners, which have pending consideration of the court. It is submitted that the learned executing court failed to appreciate that the petitioners would have got a chance to file objections in terms of the orders dated 18.11.2025, only if the subsequent order i.e. dated 20.12.2025 was set aside. The executing court thus, did not appreciate that the petitioners were struck in proverbial "devil and deep sea" in as



much as that till the exparte order was set aside they would not get chance to file objections and the application for stay was rejected for want of any objections being pending before the learned executing court. It is, thus, submitted that the executing court failed to apply judicial mind in rejecting the applications.

6. It is further submitted by learned counsel for the petitioners that bonafide of the petitioners is also evident from the fact that on coming to know about the order dated 20.12.2025, petitioners had prepared an application for direction to the Court Auctioneer to consider the Valuation Report; whereby value of the property was assessed to be Rs.8,07,71,000/-, which was duly filed before the learned Executing Court on 06.01.2026. It is submitted from this above said fact, not only it is clear that application filed by the petitioners for recalling of order dated 20.12.2025 was within time; but it is also to be considered that the market value of the property is far more than the decretal amount. In this situation, the application moved by the petitioners for appointment of Local Commissioner for assessing the market price of the property was only just and fair. Thus, the aforesaid applications of the petitioners could not have been dismissed.

7. It is accordingly prayed that present Revision Petition be allowed; and impugned order dated 09.02.2026 be set aside.

8. *Per contra*, learned counsel for respondent No.1/decreed holder appearing through caveat vehemently opposes submissions made on behalf of the petitioners and submits that in the application



dated 03.01.2026 (Annexure P-10), moved by the petitioners for direction to the Court Auctioneer to consider the Valuation Report of the property before going through the process of auction, it is nowhere mentioned by the judgment debtors that they had gained knowledge of the order dated 20.12.2025 only on 03.01.2026.

9. Learned counsel for respondent No.1 further draws attention of this Court towards Valuation Report dated 13.12.2025 (Annexure P-11) to submit that the said Report is of one week before the date of auction. Therefore, the petitioners were well aware of the fact that their property is to be put to auction. As such, the entire argument raised by the petitioners regarding the date of gaining knowledge, is without substance. He accordingly prays for dismissal of the present Revision Petition.

10. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find no merit in the submission advanced on behalf of ld. counsel for the petitioners.

11. The factual matrix of the case has already been noted hereinabove. It is necessary to appreciate that vide order dated 02.04.2025 (Annexure P-4), while allowing the SLP filed by the petitioners, the Hon'ble Supreme Court had categorically directed as follows: -

"15. The appeal is accordingly allowed. The impugned order is set aside. The decree for specific performance is set aside and a decree for refund of the earnest money along with compensation as quantified above is granted. The appellants



shall pay a sum of Rs.2,50,00,000/- (Rupees Two crores and fifty lakhs only) to the respondents within four weeks from today."

12. A bare reading of the above shows that the direction of the Hon'ble Supreme Court is unequivocal *in-as-much* as, the judgment debtors are directed to pay an amount of Rs.2,50,00,000/- (Rupees Two crores and fifty lakhs only) "*within four weeks from today.*"

13. In actual fact, in view of the unambiguous directions of the Hon'ble Supreme Court, compliance thereof was required to be automatically affected by the petitioners within 4 weeks as stipulated. Non-compliance thereof led to the respondent No.1 being constrained to file the Execution Application. The record reveals that even after the decree holder had filed the Execution Application, the petitioners-judgment debtors have adopted delaying and dilatory tactics on one ground or the other. It is the view of this Court that in view of specific directions of the Hon'ble Supreme Court, there was no requirement for assessment of the market value of the suit property.

14. Be that as it may, contention of the petitioners that they had gained knowledge of the order dated 20.12.2025 only on 03.01.2026, is absurd in the facts and circumstances of the case. Firstly, as pointed out by learned counsel for respondent No.1, in the application dated 03.01.2026 (Annexure P-10), it is nowhere mentioned that petitioners had gained knowledge of the order dated 20.12.2025 only on 03.01.2026. Further, the said contention of the petitioners is belied by



their own conduct vide the Valuation Report dated 13.12.2025 (Annexure P-11), which establishes that the petitioners were well aware that their property was to be put to auction. Even further contention of the petitioners is based on a complete misreading of the provisions of Order XXI Rule 106(3), which reads as follows: -

“[106. Setting aside orders passed ex parte, etc. (1) The applicant, against whom an order is made under sub-rule (2) of rule 105 or the opposite party against whom an order is passed ex parte under sub-rule (3) of that rule or under sub-rule (1) of rule 23, may apply to the Court to set aside the order, and if he satisfies the Court that there was sufficient cause for his non-appearance when the application was called on for hearing, the Court shall set aside the order or such terms as to costs, or otherwise as it thinks fit, and shall appoint a day for the further hearing of the application.

(2) No order shall be made on an application under sub-rule (1) unless notice of the application has been served on the other party.

(3) An application under sub-rule (1) shall be made within thirty days from the date of the order, or where, in the case of an ex parte order, the notice was not duly served, within thirty days from the date when applicant had knowledge of the order.]”

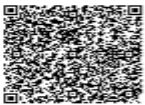
15. A bare reading of the above shows that application for setting aside exparte order is required to be made “within 30 days from the date of order”; and not within 30 days of “gaining knowledge”.



16. The concluding observations of the learned Executing Court as contained in para 12 of the impugned order succinctly reflect the conduct of judgment debtors, as follows: -

“12. Perusal of file reveals that vide order dated 20.12.2025, attached property of JDs has been ordered to be put on sale. The JDs have already delayed the payment to the decree holder despite specific direction of the Hon'ble Apex Court. Hon'ble Apex Court vide order dated 02.04.2025 has passed the specific direction to the present applicants/JDs to pay amount of Rs. 2.50 crores as compensation in lieu of the earnest money paid in 2007. However, there has been lapse on the part of JDs as they have preferred not to return the amount or to comply with the direction so passed by the Hon'ble Apex Court. Even in the Court today, JDs have placed on record copy of receipts and advertisements, which as per them, have been got published in various newspapers for sale of the property. However, when asked openly in the Court whether he intends to repay the amount so ordered by Hon'ble Apex Court to the decree holder through a compromise in installments, then, he agreed to do so, but thereafter, resiled from the said oral verbal statement and insisted that his property should not be sold out below Rs. 8 crores. It is to be appreciated that this Court time and again has ordered that the sale proceedings qua the property so attached of the JDs shall by way of public auction, which would not be started below the existing Collector rate of that area, but the JDs time and again have moved application for appointment of Local Commissioner to ascertain the market value, which is just a delaying tactics on the part of JDs to derail the process of law and accordingly, the application in hand is rejected. Matter now adjourned to the date already fixed for awaiting report.”

17. Learned counsel for the petitioners is unable to controvert or dispute the above said facts and findings.



18. In view of the above, no ground is made out to interfere in the impugned order dated 09.02.2026 (Annexure P-26). The present Civil Revision Petition is hereby **dismissed**.
19. Pending application(s), if any, also stand(s) disposed of.

17.03.2026
Divyanshi

(NIDHI GUPTA)
JUDGE

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