



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR-2094-2026(O&M)

Date of decision: 09.03.2026

Usha Rani

...Petitioner(s)

Vs.

Hardish Kaur

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. L.S. Mann, Advocate
for the petitioner.

NIDHI GUPTA, J.

Present Revision Petition has been filed by the defendant/judgment debtor seeking setting aside of the order dated 19.09.2025 (Annexure P5) passed by the learned Executing Court whereby objections filed by the petitioner have been dismissed.

2. Brief facts of the case are that the plaintiff/respondent/decreed-holder had filed Civil Suit dated 06.10.2020 for possession by way of specific performance of Agreement to Sell dated 30.03.2021. The said Suit was ex parte decreed by the learned Additional Civil Judge (Senior Division), Fatehgarh Sahib vide judgment and decree dated 14.12.2023 (Annexure P1) for alternative relief of recovery of earnest amount of Rs.9 lakh along with interest @ 12% per annum. On 31.01.2024, the respondent/decreed holder had filed



execution application (Annexure P2) under Order 21 Rule 11 CPC. Subsequently, in June 2025, the petitioner had filed objections (Annexure P3) seeking dismissal of the Execution Petition on the ground that the said execution is not maintainable as the decree is ex parte and obtained by concealing material facts. Vide impugned order dated 19.09.2025, the objections filed by the petitioner have been dismissed.

3. It is inter alia submitted by learned counsel for the petitioner that the learned Executing Court was in error in dismissing the objections filed by the petitioner as it failed to appreciate that the petitioner in Para 8 of his objections (Annexure P3) had categorically pleaded that the house of the petitioner attached by the Executing Court is the only residential house of the petitioner. The petitioner had raised the objection that attachment and sale of residential house is barred under Section 60(1) (ccc) of CPC. It is contended that therefore, the residential house regarding which decree holder has obtained warrant of possession in the present execution application is exempted from attachment under the above-said provision as the said house is the only residential house of the petitioner. Learned counsel contends that the impugned order deserves to be set aside as the said objection of the petitioner has not been dealt with while dismissing the objections.

4. No other argument is raised on behalf of the petitioner. I have heard learned counsel and perused the record in detail.



5. I find no ground is made out to interfere in the impugned order in view of the following findings of the learned Additional Civil Judge (Senior Division), Fatehgarh Sahib in order dated 19.09.2025 as under: -

"5. The main file was summoned and perused. It shows that the then defendant now applicant was duly served. Zimini order dated 17.10.2022 shows that RC and summons were issued to the defendant and since they were not received back, fresh were ordered to be issued for 10.11.2022. Zimini order dated 10.11.2022 reproduced as under:-

"Summons of defendant received back with a report that defendant has refused to accept the summons. In view of the aforesaid circumstances, it appears that defendant cannot be served in an ordinary way. Let defendant be served through Munadi or affixation on depositing of Munadi charges within 7 days, for 04.01.2022".

6. This shows that the defendant had refused to accept the summons, after which, her service through munadi or affixation was ordered. Yet on the next date of hearing i.e. 04.01.2023, the defendant was proceeded against exparte after due service upon her through munadi. The zimini order dated 04.01.2023 is reproduced as under:-

"Munadi of defendant received back duly effected. Case called several times since morning but defendant has not come present. Hence defendant is proceeded against exparte. Now to come up on 20.02.2023 for exparte evidence of plaintiff".

7. Thereafter, exparte evidence by the plaintiff was allowed and an exparte judgment and decree was passed on 14.12.2023.



8. Thereafter, execution of the said decree was preferred by the DH and was filed on 02.02.2024. Thereafter, since the execution was filed within one year from the date of passing of judgment and decree, warrants of attachment of property of JD were issued on 09.05.2024. Thereafter, the DH took time to deposit the balance sale consideration amount and placed on record the receipt of e-challan deposit and draft sale deed was placed on record. Infact after seeking report from the Reader, sale deed was also executed through Court and warrants of possession of the property of JD were issued. At the time of execution of warrants of possession, dispute on the spot arose and DH moved an application for providing police help for execution of the same. It was only then that the present application u/o 9 rule 13 CPC was filed by the applicant and was instituted on 02.07.2025.

9. It must be noted here as also brought to the attention of the Court by the Ld. Counsel for the DH that plea taken by the applicant that she does not reside at the given place of address as mentioned in the suit is not convincing. Perusal of the agreement to sell entered into by the applicant/defendant with respondent/plaintiff dated 30.03.2021 shows her address to be the same as that mentioned in the main suit. Infact the recitals of extending time which is as many as 4 times, the address of the applicant is repeated as the same address as in the main file on several occasions. The Ld. Counsel for the respondent/plaintiff has also placed on record self attested copy of aadhar card given by Usha Rani to Hardish Kaur at the time of entry into the agreement, which bears her same address. In such an eventuality, the application for condoning of delay does not appeal my judicial



mind based on the conduct of applicant/defendant as discussed above.

10. The decree holder has filed present execution application for execution of Judgment and Decree dated 14.12.2023. Since the application for condonation of delay and application under Order 9 Rule 13 CPC for setting aside the exparte judgment and decree dated 14.12.2023, have been dismissed, it cannot be said that application u/o 9 rule 13 CPC is pending.”

6. From the above facts, the reprehensible conduct of the petitioner is written large on the record of the case. It is not disputed that petitioner had moved the application under Order 9 Rule 13 CPC only on 2.7.2025, after warrants of possession were issued. Furthermore, petitioner has herself pleaded that she does not reside at the given address; thereby implying that she has other residential accommodation besides the house which has been attached in the execution proceedings. Despite repeated court query, learned counsel for the petitioner is unable to deny/explain the same.

7. Accordingly, in view of the above, present petition stands **dismissed.**

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

09.03.2026
Sunena

(Nidhi Gupta)
Judge

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