

2026:PHHC:049184



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

124

CR-2796-2026

Date of decision :30.03.2026

SAHIL TALWAR

... PETITIONER

VERSUS

VE COMMERCIAL VEHICLES LTD.

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Ajay Kumar Dahiya, Advocate
for the petitioner.

PARMOD GOYAL, J. (ORAL)

1. The present revision petition has been preferred by the petitioner-JD under Article 227 of the Constitution of India for setting aside of the impugned order dated 05.01.2026 (Annexure P-13) passed by the learned Civil Judge (Junior Division), Gurugram, whereby the objections filed by the Judgment Debtor under Section 47 read with Section 151 of the Code of Civil Procedure, 1908, along with another application seeking stay of the execution petition till disposal of the application under Order IX Rule 13 CPC, were dismissed.

2. The principal argument raised on behalf of the petitioner-JD is that, despite the pendency of his application under Order IX Rule 13 CPC, the Executing Court has proceeded with the execution of the money decree without examining the merits of the case or considering that the petitioner-JD has a *prima facie* case and is likely to succeed in the said application.

3. The facts of the present case are not in dispute. An *ex parte* judgment and decree dated 25.09.2023 was passed by Civil Judge (Junior Division), Gurugram in favour of the decree-holder in Civil Suit No. 104 of 2019, whereby recovery of Rs. 8,86,492/- along with interest @ 9% per annum was ordered/decreed. In pursuance thereof, the decree-holder/respondent initiated execution proceedings. Upon gaining knowledge of the passing of the judgment and decree, as well as the pending execution proceedings, the petitioner-JD filed objections along with an application seeking stay of the execution proceedings. Admittedly, the application under Order IX Rule 13 CPC preferred by petitioner-JD is still pending consideration.

4. It is the case of the petitioner-JD that, despite repeated reports indicating that he was not residing at the given address, no efforts were made to ascertain or furnish his correct address. Instead, the petitioner-JD was served through publication. It is contended that the respondent/decreed-holder was always aware of the correct address of the petitioner-JD, as is evident from the fact that, while filing the execution petition, the correct and present address of the petitioner-JD was duly mentioned. However, the same was deliberately not disclosed before the trial Court, with a mala fide intention to obtain an *ex parte* judgment and decree.

5. On consideration, I find that in the present case, it would be appropriate to balance the equities between the decree-holder and the judgment debtor. The application filed by the petitioner-JD for setting aside the *ex parte* judgment and decree is pending adjudication before the Court of first instance.

6. In these circumstances, it is considered appropriate to direct the petitioner-JD to secure the entire decretal amount along with interest and costs,

as awarded vide judgment and decree dated 25.09.2023, subject to the decision of his application under Order IX Rule 13 CPC.

7. Accordingly, it is ordered that the petitioner-JD shall either deposit the entire decretal amount along with interest and costs before the Executing Court or furnish a bank guarantee securing entire decretal amount including interest and cost to the satisfaction of the Executing Court, which shall be made valid by petitioner till the decision of the application under Order IX Rule 13 CPC. The petitioner-JD is granted a period of 45 days to comply with the aforesaid directions.

8. In the event of deposit of amount, the same shall be invested in a Fixed Deposit Receipt (FDR) in a nationalised bank so as to earn maximum interest, and the amount shall be disbursed to the party ultimately succeeding in the application under Order IX Rule 13 CPC. In case a bank guarantee is furnished, the same shall be encashed in terms of the final outcome of the said application. If the application under Order IX Rule 13 CPC is dismissed, the decretal amount shall be released in favour of the decree-holder in terms of the judgment and decree. Till the expiry of the aforesaid period of 45 days, the Executing Court shall not proceed further with the execution proceedings. In case the petitioner-JD fails to deposit the amount or furnish the bank guarantee within the stipulated period, the Executing Court shall be at liberty to proceed with the execution in accordance with law. However, in case the petitioner-JD complies with the aforesaid directions within the stipulated period, the execution proceedings shall remain stayed during the pendency of the application under Order IX Rule 13 CPC.

9. The Court concerned, before whom the application under Order IX

Rule 13 CPC is pending, is directed to decide the same expeditiously, preferably within a period of one year from today.

10. Disposed of accordingly.
11. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

30.03.2026
manoj

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No