



135

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

CR-2266-2025 (O&M)

Date of Decision : 15.01.2026

Gurbachan Lal & Ors

... Petitioner(s)

Versus

Niab Singh & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Saket Bhandari, Advocate for the petitioners.

ALKA SARIN, J. (Oral)

1. The present revision petition has been filed under Article 227 of the Constitution of India impugning the order dated 31.01.2025 (Annexure P-10) passed by the First Appellate Court dismissing the appeal of the petitioners herein and the order dated 18.01.2019 (Annexure P-8) passed by the Trial Court, whereby it was held that there was no violation of the interim order dated 25.02.2012 by respondent Nos.1 and 2 herein.

2. Brief facts relevant to the present *lis* are that the plaintiff-petitioners herein filed a suit for partition and declaration with consequential relief of permanent injunction. Alongwith the said suit an application for interim injunction was also filed. Vide order dated 25.02.2012 the defendants in the suit were restrained from changing the nature of the suit property and in case of alienation, the defendants were permitted to alienate only their shares and not a specific portion of the suit property. An application was filed

under Order 39 Rule 2A read with Section 151 of the Code of Civil Procedure, 1908 for alleged violation of the stay order dated 25.02.2012. It was averred in the application that the defendants had demolished the house and were reconstructing the same, thus, changing the nature of the suit property. It was further averred in the application that the petitioners herein had given an application on 19.09.2013 to respondent Nos.1 and 2 herein, who are Police officials, for taking action against the contemnors, however, they refused to go to the spot and take action, hence, it was alleged that there was a wilful violation by all the respondents. Reply was filed to the said application. Vide order dated 18.01.2019 (Annexure P-8) the Trial Court held the defendants in the suit guilty of having violated the order and qua respondent Nos.1 and 2 herein the application was dismissed. Aggrieved by the same, appeals were filed by the defendant - Asha Rani - and by the plaintiff-petitioners herein. Vide order dated 31.01.2025 the appeals filed by Asha Rani being CA Nos.49 and 110 of 2019 and the appeal filed by the plaintiff-petitioners herein being CA No.130 of 2019 were disposed off by a consolidated order. While disposing off the appeals filed by Asha Rani it was held that Asha Rani had purged the contempt and her unconditional apology was accepted. The order of simple imprisonment was accordingly set aside. Qua the appeal filed by the plaintiff-petitioners against respondent Nos.1 and 2 herein, it was held that there was no direction in the order dated 25.02.2012 which is stated to have been violated by them. Hence, the present revision petition by the plaintiff-petitioners herein.

3. Learned counsel for the plaintiff-petitioners would contend that the defendants in the suit were restrained from changing the nature of the suit property and by demolishing the property and reconstructing the same, they

changed the nature of the property. An application was moved to respondent Nos.1 and 2, who are Police officials, however, they refused to take any action in the matter and hence they were also guilty of having violated the order passed by the Trial Court on 25.02.2012. In support of his contentions he has relied upon the judgment of this Court in the case of **Renu Sharma Vs. Hamara Realty Pvt. Ltd. [2014 (57) RCR (Civil) 753]**.

4. I have heard the learned counsel for the plaintiff-petitioners.

5. In the present case, as is apparent from the order dated 25.02.2012 (Annexure P-4), the direction was only to the defendants therein who were parties to the suit, restraining them from changing the nature of the suit property. Respondent Nos.1 and 2, who are Police officials, were not parties to the suit and there is no direction to them in the entire order. Learned counsel for the plaintiff-petitioners has been unable to show any provision of law wherein it has been mandated that when an order of stay has been passed by the Court, the execution of the same is to be done by the Police Authorities. Procedure for execution of an order/decreed has been laid down in the Code of Civil Procedure, 1908 as also the steps to be taken in case of violation of the order. A person who is neither a party to the suit nor is there any direction given to him cannot possibly be held guilty of having violated the order. The judgment in Renu Sharma's (supra) relied upon by the learned counsel for the plaintiff-petitioners would not come to his aid inasmuch as in the said case the respondents therein, who were though not parties to the suit, were held guilty of having violated the stay order on the ground that they had connived by granting licence to the respondents therein and having abetted the commission of violation of the order dated 05.02.2011. In the present case, no such case is made out. Since respondent Nos.1 and 2 herein were not parties

to the suit and there was no direction to them in the order dated 25.02.2012, the application under Order 39 Rule 2A CPC has rightly been dismissed qua them by both the Courts.

6. In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

15.01.2026
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO