



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

(117)

CR-3154-2026 (O&M)**Date of Decision:- 16.04.2026****CHETI @ NAIN SINGH @ PRAKASH VIR AND ANOTHER**

... Petitioners

Versus

KHUBI (SINCE DECEASED) THROUGH HIS LRs AND ANOTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Johan Kumar, Advocate
for the petitioners.

VIRINDER AGGARWAL, J.

1. The present civil revision petition under Article 227 of the Constitution of India invokes the supervisory jurisdiction of this Court to assail the order dated 06.02.2026 (**Annexure P-9**) passed by the learned Executing Court, whereby the application filed by respondent No. 1—decree holder seeking permission to deposit ad valorem court fee in terms of the judgment and decree dated 24.02.2014 (**Annexure P-1**), as affirmed on 04.09.2015 (**Annexure P-2**), has been allowed.

2. To summarize the relevant facts are that the suit for possession instituted by the respondents—plaintiffs was decreed vide judgment and decree dated 24.02.2014, subject to the condition that ad valorem court fee on the suit property shall be deposited prior to initiation of execution proceedings. The appeal preferred by the present petitioners was dismissed



on 04.09.2015, and the Regular Second Appeal was also dismissed in limine on 11.02.2019.

3. It is undisputed that the decree holder instituted execution proceedings on 05.09.2016 without depositing the requisite ad valorem court fee. Although the court fee was subsequently deposited on 29.01.2018, the Executing Court declined to treat the same as compliance of the condition stipulated in the decree and, consequently, dismissed the execution petition vide order dated 04.05.2019 on the ground that the decree was not executable for non-compliance of the pre-condition regarding prior deposit of court fee. Thereafter, the decree holder moved an application dated 27.05.2019 seeking permission to deposit the requisite court fee. The said application was contested by the petitioners. Meanwhile, Revision Petition No. 7412 of 2023 filed by the decree holder against the order dated 04.05.2019 was disposed of with a direction to the Executing Court to decide the pending application in accordance with law. Pursuant thereto, the Executing Court, after hearing both sides, allowed the application vide impugned order dated 06.02.2026 permitting deposit of ad valorem court fee. Aggrieved thereby, the present revision petition has been preferred.

4. Learned counsel for the petitioners has contended that the impugned order is legally unsustainable as the issue regarding deposit of court fee already stood finally adjudicated by the order dated 04.05.2019 dismissing the execution petition. It is argued that the subsequent application is barred by the principles of res judicata under Section 11 of the Code of Civil Procedure, 1908, particularly in view of Explanation VII,



upon ***Arjun Singh v. Mohindra Kumar, AIR 1964 SC 993; Pradeep Mehra v. Harijivan J. Jethwa (since deceased) through LRs, 2023 (4) RCR (Civil) 835; Sharada Sanghi v. Asha Agarwal, 2026 INSC 292; and Barkat Ali v. Badri Narain (dead) by LRs, 2008 (2) RCR (Civil) 117***, to contend that the principle of res judicata applies even at subsequent stages of the same proceedings and bars re-adjudication of issues finally decided.

5. I have heard learned counsel for the petitioners and have carefully perused the paper-book.

6. There is no dispute with the settled proposition that the principles of res judicata apply even to successive stages of the same litigation, and that issues finally adjudicated cannot be re-agitated, having attained finality under Section 11 CPC read with Explanation VII thereof, which extends the doctrine to execution proceedings as well.

7. However, for determining the applicability of the said principle to the facts of the present case, it is necessary to examine the true import and legal effect of the order dated 04.05.2019 passed by the Executing Court. The relevant portion thereof, contained in paragraph 5, reads as under:-

"5. Both the parties argued on the same lines as contained in their objection and reply filed thereto which have already been discussed in detail in para No.2 and 3 of this order. So, it would be futile exercise to reproduce the arguments herein again. Apart from this, the learned counsel for DH placed on record receipt of the payment of court fees via application. At this stage, the Court is of the confirmed and considered view that present objection should be dismissed for the reasons mentioned therein that the careful perusal of the judgment to which this execution pertains specifically laid down the condition in the last para, i.e para No.18, that the suit of



the plaintiff is decreed with cost, subject to payment of advolorem court fee on the suit land before filing of the execution petition. Careful perusal of this execution petition reveals that the same was filed in the year 2016 and the receipt for payment of advolorem court fees placed on record today itself made it abundantly clear that the same was paid in the year 2018. Meaning thereby, the requisite condition which was imposed by the court has not been fulfilled by the decree holder and the advolorem Court fee has not been deposited before filing of the present execution petition. That being so, it is settled law that the executing court cannot go behind the decree and the executing court has to execute the decree as it stands.

6. *With these facts in the backdrop, and in consequence of the detailed discussion held above, the present execution petition is hereby dismissed.”*

8. A perusal of the order dated 04.05.2019 reveals that the execution petition filed by the respondent–plaintiff/decreed holder was dismissed as not maintainable on account of non-compliance of the condition stipulated in the decree. In contrast, by the impugned order, the Executing Court has entertained the decree holder’s application seeking permission to deposit court fee, premised on the plea that no specific time limit was prescribed for such deposit and that the execution petition can be filed within the limitation period of twelve years from the date of decree. Upon consideration of the rival submissions, the learned Civil Judge allowed the application and permitted the decree holder to deposit the requisite court fee, as recorded in paragraph 8 thereof, which reads as under:—



"The decree becomes executable only after the payment of full and requisite court fee. Therefore, in the interest of justice, the present application filed by the applicants is hereby allowed in the manner that the applicants being LR's of the deceased Gopi are permitted to pay the requisite ad valorem court fee in compliance of judgment and decree mentioned above. As the court fee is already placed on the case file, therefore, the Ahlmad is directed to attach the court fee on the main civil suit case file within seven days of this order. "

9. Vide order dated 04.05.2019, the execution petition was held to be not maintainable on the ground that the decree was not executable for want of prior deposit of ad valorem court fee, as required under the decree. The decree in favour of the respondent-plaintiff was thus treated as capable of execution only upon compliance with the condition of payment of ad valorem court fee on the suit land.

10. The learned Civil Judge has rightly observed that the decree did not prescribe any specific time frame for deposit of court fee. The obligation to affix ad valorem court fee was a pre-condition for execution, and the earlier execution petition was dismissed solely on the ground that such fee had not been deposited prior to its filing. The order dated 04.05.2019, therefore, cannot be construed as creating an absolute or perpetual bar against subsequent compliance of pre-existing in order to make decree executable.

11. In view thereof, the doctrine of res judicata is not attracted to the facts of the present case. The Executing Court has thus rightly exercised jurisdiction in permitting the decree holder to deposit the requisite court fee, thereby enabling execution of the decree in accordance



12. No jurisdictional error, illegality, or perversity has been demonstrated in the impugned order so as to warrant interference by this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India.

13. Consequently, finding no merit in the present revision petition, the same is hereby dismissed.

14. It is, however, clarified that the observations recorded here-in-above are neither intended nor shall be construed as any expression of opinion on the merits of the underlying dispute. The same are confined strictly to the adjudication of the present issue and to the limited scope of the controversy considered for the purposes of this order. Nothing contained herein shall prejudice or influence the rights, claims, or contentions of any party in any other proceedings, nor shall it be treated as a determination of any substantive question of fact or law involved in the main matter.

15. In view of the fact that the principal matter stands finally adjudicated, all pending miscellaneous applications, if any, also stand disposed of accordingly, leaving no further orders to be passed thereon.

16.04.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No