



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-2989-2024(O&M)
Date of decision: 28.01.2026

Jatin Gandhi and another

... Petitioners

Versus

Sarban Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Kamal Satija, Advocate,
for the petitioners.

Mr. Birinder Singh Khehar, Advocate,
for the respondents.

VIKRAM AGGARWAL, J. (ORAL)

The instant revision petition, preferred under Article 227 of the Constitution of India, assails order dated 12.01.2024 (Annexure P-4), passed by the Court of Civil Judge (Jr. Divn.), Kharar, vide which the third party objections filed by the petitioners assailing the issuance of warrants of possession were dismissed.

2. A suit (Annexure P-12) was instituted by the respondents/ plaintiffs for partition of land measuring 5 kanals 7 marlas (fully described in the plaint), situated in the area of Village Fartulapur, Tehsil Kharar, District Mohali (hereinafter referred to as, '**the suit property**'). Consequential relief of permanent injunction restraining the defendants from raising any construction over the suit property till partition by metes and bounds, was also prayed for.



3. In the said suit, a preliminary decree dated 14.08.2017 (Annexure P-13) was passed followed by a final decree dated 09.11.2022 (Annexure P-14).

4. Thereafter, further proceedings were also conducted after the appoint of the Local Commissioner. The petitioners instituted objections under Order XXI Rule 99 CPC (Annexure P-2) on the ground that a part of the suit property, viz. plot No.7043, had been purchased by the petitioners from one Manohar Kumar on 02.12.2022, who had purchased the same from one Satwinder Kaur vide registered sale deed dated 25.03.2022, and Satwinder Kaur, in turn, had purchased the same from M/s Bajwa Developers vide sale deed dated 16.07.2009. It was the case of the petitioners that despite mutations having been sanctioned and they being co-owners in the suit property, they were not arrayed as parties.

5. Reply (Annexure P-3) was filed by the respondents/plaintiffs opposing the objections.

6. Vide order dated 12.01.2024, the Court of Civil Judge (Jr. Divn.), Kharar dismissed the objections, leading to the filing of the instant revision petition.

7. I have heard learned counsel for the parties.

8. Though arguments were heard on merits, it transpires that the impugned order was passed in the absence of counsel for the Objector, and the Objector was also not present at the time of arguments.

9. It is well settled that in the absence of learned counsel or a party in civil proceedings, the matter can be dismissed in default but not on merits.

Though there are specific provisions governing appeals under Order XLI



Rule 17 CPC, there is no specific provision as regards Objections, therefore, general principles would apply to all civil proceedings.

10. Learned counsel for the respondents/plaintiffs submits that the petitioners and their counsel were deliberately not appearing before the executing Court. Reference has been made to three orders passed prior to the impugned order, which recorded that there was no representation on behalf of the Objector and that in case of non-appearance, the matter would be decided on merits. He submits that under the circumstances, no illegality was committed by the executing Court in dismissing the objections on merits.

11. Though the conduct of the petitioners/objectors is condemnable, since there was a clear attempt on their behalf to delay and derail the proceedings, it would not justify a decision of the matter on merits in the absence of counsel.

12. In that view of the matter, the instant revision petition is allowed. The impugned order is set aside and the executing Court is directed to decide the objections filed by the petitioners in accordance with law.

13. Needless to assert, considering that a preliminary decree was passed as far back as on 14.08.2017 and a final decree on 09.11.2022, the executing Court would deal with the matter expeditiously and decide the objections, preferably within a period of six months.

14. Keeping in view the conduct of the petitioners, the aforesaid directions shall be subject to payment of costs of Rs.15,000/- to the respondents/plaintiffs.



15. Pending application(s), if any, also stands disposed of.

(VIKRAM AGGARWAL)
JUDGE

January 28, 2026

Rajan

Whether speaking / reasoned:	Yes/No
Whether Reportable:	Yes/No