



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

125

CR-3991-2026

Date of decision: 12.05.2026

**PARTAP SINGH THROUGH HIS LRS GAJENDER AND OTHERS
...PETITIONERS/DEFENDANTS**

VERSUS

**BIJENDER SINGH DAGAR AND ANOTHER
...RESPONDENTS/PLAINTIFFS**

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Aman Sorout, Advocate
for the petitioners/defendants.

YASHVIR SINGH RATHOR, J. (ORAL)

1. This revision petition has been instituted by petitioners/defendants under Article 227 of the Constitution of India for setting aside the impugned order dated 06.04.2026 (Annexure P-6) vide which the application for staying the operation of the judgment and decree dated 22.10.2024 passed by learned Additional District Judge, Palwal, in Civil Appeal No.11 of 2025, titled as **Partap Singh Vs. Bijender Singh Dagar and Another**, has been dismissed.

2. In view of the nature of the order proposed to be passed, issuance of notice to the respondents is dispensed with, as it would only delay the proceedings and cause unnecessary expenditure to the respondents.

3. I have heard learned counsel for the petitioners/defendants and have gone through the material placed on record.



4. A perusal of record shows that vide judgment and decree dated 22.10.2024, the suit filed by the plaintiff/respondent has been decreed and a decree for possession by way of specific performance of the agreement has been passed in his favour in respect of the suit property on receipt of the balance sale consideration. Petitioners/defendants have instituted an appeal against the aforesaid judgment and decree and have sought stay of its execution during pendency of the appeal. However, the said prayer has been declined vide impugned order. The relevant portion of the order passed by the First Appellate Court is reproduced as under:-

“4. I have heard the parties and perused the record carefully.

5. The perusal of the impugned judgment and decree dated 22.10.2024 shows that the learned trial court has granted the relief of specific performance to the extent of 8 kanals of land, out of property received by the appellant without partition and the decree is not confined to any particular killa nos. Therefore, the contention raised by learned counsel for the appellant that the decree has become inexecutable on account of non availability of specific killa nos does not appear to be sustainable.

6. It is settled principle of law that where a co-sharer enters into an agreement to sell in respect of specific killa nos, out of joint property, such agreement amounts to transfer of share in the joint property and not to any specific share of land, prior to partition. Consequently, the subsequent partition proceedings do not render such agreement or the decree passed thereof, inexecutable and the decree holder remains entitled to seek execution of the decree from the share of the judgment debtor. Accordingly, at this



*stage, no specific ground is made out for staying the execution of the impugned decree. Hence, **the present application for staying the operation of impugned judgment and decree is hereby dismissed.***

7. *No expression of this order shall be construed to be an opinion upon the merits of the case.*

*An application for bringing on record the LRs of deceased Partap Singh moved by counsel for appellant. Application is supported with a copy of death certificate of Pratap Singh. Adjourned to **11.5.2026** filing reply to the said application as well as for arguments on main appeal.”*

5. The order reflects that sale deed has already been executed during the execution proceedings. Now warrant of possession has been issued and in case, the judgment and decree dated 22.10.2024 under challenge is implemented and possession is also delivered to the decree-holder/respondent, the appeal filed by the defendants/petitioners bearing Civil Appeal No.11-2025 shall become infructuous. Learned First Appellate Court thus ought to have stayed the execution of the judgment and decree during pendency of appeal as rights of the parties have not been crystallized as yet as the appeal is still pending against the judgment and decree passed by the Trial Court.

6. In view of the aforesaid discussion, the present petition is accepted and the impugned order dated 06.04.2026 is hereby set aside. It is also ordered that the execution of the judgment and decree dated 22.10.2024 shall remain stayed during the pendency of appeal preferred by the petitioners-defendants. This order has been passed without issuing



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notice to respondents/plaintiffs and if aggrieved, they can approach the Court for recall of this order so that the petition can be disposed of after giving opportunity of hearing to both the parties.

7. Pending misc application(s), if any, shall also stand disposed of.

12.05.2026

Vishal Vardhan

(YASHVIR SINGH RATHOR)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No