



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

CR No.4330 of 2026 (O&M)

Date of Decision:-22.05.2026

Sameer Kumar

.....Petitioner.

Versus

Geeta Kathuria

.....Respondent.

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present:- Petitioner in person.

VIKRAM AGGARWAL, J. (ORAL)

The instant revision petition, preferred under Article 227 of the Constitution of India, assails order dated 11.05.2026 (Annexure P-11) passed by the Court of District Judge, Gurugram, vide which the application for grant of stay during the pendency of the restoration application (Annexure P-10) instituted under Section 151 read with Section 141 and Order IX Rule 9 of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'CPC') was dismissed.

2. The facts, as emanating from the petition, are that a suit (Annexure P-1) for possession by way of ejectment and for recovery of arrears of rent/ damages/*mesne profits* was instituted by the respondent-plaintiff (Geeta Kathuria) against the petitioner-defendant (Sameer Kumar) qua the ground floor of residential House No.523, Sector-5, Urban Estate, Gurgaon.

3. During the pendency of the suit, an application under Order XV Rule 5 read with Section 151 CPC was instituted by the respondent-plaintiff for striking off the defence of the petitioner-defendant. The said application was allowed vide order dated 08.01.2025 (Annexure P-2) since the petitioner-defendant had failed to deposit the arrears of rent at the first hearing of the suit.

4. Aggrieved by the said order, an appeal (Annexure P-3) was instituted by the petitioner-defendant. Vide order dated 30.04.2025 (Annexure P-5) passed by the appellate Court, the proceedings before the trial Court were stayed. The order dated 30.04.2025 reads as under:-

“Present: Appellant Shri Sameer Kumar, Advocate in person.

Shri V.P. Munjal, Advocate for the respondent along with respondent Smt. Geeta Kathuria in person.

Lower court record received and attached with the civil appeal. Learned counsel for respondent referred Order 15 Rule 5 of CPC which was inserted by way of amendment and as per the Code of Civil Procedure (Professional Book Publisher, Delhi), 2020, same is applicable to Punjab, Haryana and Chandigarh. Learned counsel for appellant submitted the Code of Civil Procedure of the same publisher, publishing in the year 2025, showing that said amendment relates to State of Punjab.

None of the counsel is having the notification, through which the said amendment was introduced. Counsel for the parties seek adjournment for submission of notification. Adjourned to 03.07.2025 for submission of notification and for consideration on the objections raised by

learned counsel for respondent regarding maintainability of the present appeal.

Learned counsel for appellant made request for staying the proceedings of learned trial court up to the next date of hearing on the ground that in case, the evidence of the plaintiff is recorded on the date fixed before learned trial court, his appeal would render infructuous. Learned counsel for the respondent opposed the request made by learned counsel for appellant.

In view of request made by learned counsel for appellant, the proceedings of the learned trial court shall remain stayed upto the next date of hearing.”

5. Vide order dated 06.02.2026 (Annexure P-6), the appeal was dismissed in default. This led to the filing of an application (Annexure P-7) under Order XLI Rule 19 read with Section 151 CPC for re-admission of the appeal.

6. Vide order dated 06.04.2026 (Annexure P-9), the said application for restoration was also dismissed in default as no one caused appearance. This led to the filing of an application (Annexure P-10) for restoration of the application for re-admission. It was submitted in the application that the non-appearance on 06.04.2026 was on account of a death in the family on 01.04.2026 and on account of the petitioner-defendant suffering from fever. Along with the said application, an application for stay was also filed.

7. Vide the impugned order dated 11.05.2026, hearing in the application was deferred to 15.05.2026 and the request for stay was declined.

8. I have heard the petitioner-defendant, who has appeared in person.

9. The petitioner submits that the impugned order is illegal and arbitrary and that for no fault of his, the stay stands vacated and execution proceedings are continuing. He submits that the absence on both dates was unintentional and *bona fide*. The petitioner also contends that the provisions of Order XV Rule 5 CPC are not applicable in the State of Haryana and, therefore, the defence of the petitioner could not have been struck off. He further submits that the appeal against the said order was duly maintainable and that on account of non-consideration of the application for restoration, the rights of the petitioner are being prejudiced.

10. I have considered the submissions made by the petitioner but find the same to be devoid of merit.

11. The defence of the petitioner was struck off vide order dated 08.01.2025 on account of failure to deposit the arrears of rent. This Court is not inclined to go into the question as to whether the provisions of Order XV Rule 5 CPC are applicable or not since the said order is not under challenge before this Court and the appeal had been filed against the same. As to whether the appeal itself was maintainable or not is also a matter of debate before the appellate Authority.

12. The fact remains that the Appellate Court is seized of the application for restoration of the appeal and the application for restoration of the application for restoration. On a query put by the Court, the petitioner produced copy of order dated 15.05.2026. The query was put

because in the impugned order, the date had been fixed as 15.05.2026 for arguments. The order dated 15.05.2026 shows that it was on the request of the petitioner that the matter had been adjourned to 08.07.2026. The petitioner tried to controvert the said factual position by stating that since he was suddenly confronted with the issue of maintainability of the application, he had to seek an adjournment. This Court is not convinced with the explanation put forth by the petitioner. The revision petition was filed on 18.05.2026 and the order dated 15.05.2026 was not disclosed.

13. Be that as it may, since as of now the appeal stands dismissed and the application for restoration of the appeal as also the application for restoration of the application for restoration are pending consideration, there is no occasion for this Court to interfere with the impugned order and grant stay to the petitioner.

14. That being so, the instant revision petition is not only found to be devoid of merit but is also found to be misconceived and is accordingly dismissed.

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

May 22, 2026
Yag Dutt

(VIKRAM AGGARWAL)
JUDGE

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