



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
127

CR-6142-2025(O&M)
Date of decision: 24.03.2026

Zayada

...Petitioner(s)

Vs.

Mehar Chand

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Aditya Jain, Advocate
Mr. Kaanan Jain, Advocate
Ms. Indu Bala, Advocate
Mr. Gurjot Singh, Advocate
for the petitioner.

NIDHI GUPTA, J.

Present Revision Petition under Article 227 of the Constitution of India read with Section 151 CPC has been filed by the judgment debtor seeking setting aside of the order dated 31.05.2025 (Annexure P1) passed by the Civil Judge (Junior Division), Faridabad whereby application filed by the petitioner for setting aside ex parte order dated 03.04.2017, has been dismissed.

2. Brief facts of the case in chronological order are as under:-

12.01.2012: Plaintiff/respondent had filed Civil Suit No.246 of 2012 dated 12.01.2012 titled as "Mehar Chand Saini Vs. Zayada" for specific performance of the Contract dated 12.01.2012.



18.04.2012: The petitioner had filed written statement dated 18.04.2012 to the aforesaid Civil Suit.

14.12.2016: Vide judgment and decree dated 14.12.2016, suit of the plaintiff was decreed.

28.02.2017: In the meantime, the respondent/plaintiff had filed Execution Petition No.EXE-127 dated 28.02.2017 (Annexure P2).

03.04.2017: In the said Execution Proceedings, the petitioner was proceeded against ex parte vide order dated 03.04.2017.

04.04.2018: Petitioner had filed Civil Appeal No.211 dated 04.04.2018 against the said judgment and decree dated 14.12.2016.

17.03.2025: Vide judgment and decree dated 17.03.2025, Civil Appeal filed by the petitioner was dismissed.

22.05.2025: It is thereafter that the petitioner filed the instant application dated 22.05.2025 (Annexure P4) for setting aside the ex parte order dated 03.04.2017.

22.5.2025: Alongwith the above application, petitioner also filed Application (Annexure P5) for condonation of delay.

Nil: The respondent/plaintiff had filed replies dated 'Nil' (Annexure P6 and P7 respectively) to the applications filed by the petitioner for setting aside the ex parte order, and for condonation of Delay.



31.05.2025: Vide impugned order dated 31.05.2025 (Annexure P1), application of the petitioner for setting aside ex parte order dated 03.04.2017, has been dismissed.

3. It is inter alia submitted by learned counsel for the petitioner that the learned Court has passed the impugned order (Annexure P1) in completely illegal and arbitrary manner without appreciation of factual circumstances and ground reality. It is submitted that the impugned order is a non-speaking order especially with regard to the issue of condonation of delay. Learned Court below has failed to appreciate that RSA in the main matter is already pending adjudication before this Court. Thus, application of the petitioner ought to have been allowed and she should have been permitted to contest the Execution Petition. The learned Court below has passed the impugned order in complete haste while losing sight of the process to be adopted while deciding both the applications for condonation of delay as well as setting aside of the ex parte proceedings. Learned Executing Court has adopted a completely biased approach and has acted in haste. It is accordingly prayed that the impugned order be set aside.

4. No other argument is made on behalf of the petitioner. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions advanced on behalf of the petitioner.

5. The factual matrix of the case has already been noted hereinabove. A perusal of the record of the case shows that notice of the



Execution Petition had been duly served upon the petitioner through her husband. Yet no one had appeared on behalf of the petitioner. Accordingly, she had been proceeded against ex parte vide order dated 3.4.2017.

6. Along with the application dated 22.05.2025 (Annexure P4), the petitioner had also filed application for condonation of delay for setting aside the ex parte order dated 03.04.2017. Perusal of the application filed by the petitioner for condonation of delay (Annexure P5) shows that no reasons have been given for the delay in filing application dated 22.05.2025 for setting aside ex parte order dated 03.04.2017. All that has been contended is that the ex parte order dated 03.04.2017 came to the knowledge of the petitioner on 03.04.2025 and therefore, delay of 19 days has occurred in filing the application for setting aside of the ex parte order. Nothing has been stated as to how or in what manner petitioner discovered about the order dated 3.4.2017. In any event, the said contention belies belief as petitioner had duly filed civil appeal against the judgment and decree of the trial court.

7. It has also been stated that the petitioner could not file ex parte application on 03.04.2017 due to ill health as mentioned in Annexure P4. However, all that has been mentioned in Para 2 is that *“applicant/JD felt heavy breath and her health deteriorated and due to the reason she could not file the application for setting aside ex parte order dated 03.04.2017”*. No medical record has been attached to substantiate the said averments.



8. Relevant observations of the learned Civil Judge (Junior Division), Faridabad in order dated 31.05.2025 are as under: -

“7. Now it is clear that the defendant was proceeded against ex-parte on 30.04.2017 and the application has been moved on 22.05.2025. The delay has not been explained. Though, the applicant/ Judgment Debtor has stated that she came to know about the present execution petition on 03.04.2025 but the same does not inspire the confidence of this court as the applicant/ Judgment Debtor had preferred an appeal against the Judgment and decree dated 14.12.2016. Further, in the present execution proceedings, the sale deed qua the suit property has already been executed and even warrants of possession were issued so, in this scenario, it does not lie in the mouth of the applicant/ Judgment Debtor that she came to know about the pendency of execution proceedings on 03.04.2025. The applicant/ Judgment Debtor has not been able to explain each days delay in moving the application, as such keeping into view the fact that the application for setting aside the ex-parte has been moved almost after eight years, the application can not be allowed. Application for setting aside the ex-parte proceeding is dismissed.”

9. Ld. Counsel for the petitioner is unable to dispute or controvert the above said facts and findings. The due processes of law cannot be permitted to be misused. In view of the above, present Civil Revision Petition stands **dismissed**.

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

24.03.2026
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No