



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

131

CR-8715-2025 (O&M)
Date of decision:14.01.2026

Prem Kumar

...Petitioner

versus

Gurwinder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Sachin Ohri, Advocate and
Mr. Sachin Gupta, Advocate
for petitioner.

PARMOD GOYAL, J. (ORAL)

Petitioner is aggrieved by impugned order dated 01.11.2025 (Annexure P-1) passed by Additional Civil Judge (Senior Division), Pathankot being executing Court.

2. Petitioner is judgment-debtor whereas respondent-decree-holder had filed an execution petition seeking execution of judgment and decree dated 15.05.2023 (Annexure P-2).

3. It is worth noticing that vide judgment and decree dated 15.05.2023, suit for specific performance was partly decreed. Petitioner-judgment-debtor, the seller was held liable to return back earnest money of Rs.17,00,000/-, which he had received from respondent-decree-holder along with interest @ 9%. No appeal has been preferred against judgment and decree dated 15.05.2023.

4. Learned counsel for petitioner is unable to show whether any appeal has been preferred against the judgment and decree dated 15.05.2023



and whether any stay is operating against execution of judgment and decree dated 15.05.2023. On filing of execution petition, present petitioner-judgment debtor had filed objections which were duly considered and dismissed vide order dated 06.09.2025 (Annexure P-3) and conditional warrants for realisation of decretal amount was issued and since conditional warrants could not be executed for the date fixed, they were re-issued on 11.09.2025 and 19.09.2025. Petitioner-judgment-debtor had moved an application seeking recall of orders dated 06.09.2025, 19.09.2025 and 19.09.2025 by claiming that he has got no movable or immovable property and is suffering from locomotor disability to the tune of 50%.

5. It is the case of petitioner-judgment-debtor that he is unable to earn his livelihood and has got no source of income. It was asserted that as petitioner-judgment-debtor has no means to pay the amount, therefore, he cannot be held to be wilful defaulter and conditional warrants be recalled.

6. Learned executing Court, after considering application preferred by petitioner-judgment-debtor that conditional warrants be recalled as he has no means, concluded that petitioner-judgment-debtor has not come with clean hands before the Court. It was found that no list of movable or immovable property/assets has been filed to show that petitioner-judgment-debtor has got no means to pay the decretal amount. Furthermore, petitioner-judgment debtor had duly admitted himself to be co-sharer of land which was subject matter of suit. Petitioner-judgment-debtor is still stated to be co-sharer in said land, however, has no made any effort to repay the amount due under the decree despite having sufficient means i.e. land to satisfy the decree. Learned

**CR-8715-2025****-3-**

executing Court concluded that non-payment of decretal amount on the part of petitioner-judgment-debtor is clearly with *mala fide* intent and therefore, the application for recalling conditional warrants has been dismissed.

7. I do not find any ground to interfere in the impugned order passed on 01.11.2025 (Annexure P-1) by executing Court. Faced with this situation, learned counsel for petitioner-judgment debtor submits that executing Court ought to have proceeded against property owned by petitioner-judgment-debtor as executing Court had found that petitioner-judgment-debtor is co-sharer in the property, which was subject matter of suit.

8. Let particulars of property be furnished by respondent-decree-holder within one week from today in the executing Court and executing Court shall proceed to execute judgment and decree dated 15.05.2023 (Annexure P-2) in accordance with law. Complete details of property be furnished by petitioner-judgment-debtor. Respondent-decree-holder shall also be free to furnish details of property for recovery of amount due.

9. Revision petition is accordingly disposed of.

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

(PARMOD GOYAL)
JUDGE

14.01.2026
Sunil Chander

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