

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(123)

CR-9292-2025 (O&M)

Date of Decision:-19.01.2026

ASHOK KUMAR

... Petitioner

Versus

GURJINDER SINGH

... Respondent

-:-

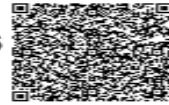
CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. G.S. Salana, Advocate,
for the petitioner.

VIRINDER AGGARWAL, J. (Oral)

1. The instant revision petition has been filed by the petitioner assailing the order dated 12.11.2025, whereby, the Executing Court has dismissed the objection petition filed by the petitioner. Respondent filed a suit for specific performance to execute the agreement to sell dated 22.04.2008 pertaining to the suit property situated within the area of Kurali, Tehsil Kharar, District SAS Nagar, Mohali. Suit was filed at Civil Court Ropar, whereas Kharar falls within the territorial jurisdiction of Civil Courts, Kharar. Suit was partly decreed for recovery of Rs.12,00,000/- along with interest. Respondent filed an execution petition at Civil Court Ropar, which was transferred to Civil Court, Kharar for execution. Petitioner preferred objection petition contending that the decree is not executable as the same has not been passed by the Court having competent jurisdiction. Learned Executing Court dismissed the objection petition vide impugned order.

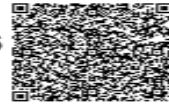
2. Learned counsel contended that in view of the law laid down by Hon'ble Apex Court in *Kiran Singh and others versus Chaman*



Paswan and others, 1954 AIR SC, 340, a defect of jurisdiction strikes at the very authority of the Court to pass any decree and the defect cannot be cured even by the consent of the parties. In that case, objection was raised as to the competence of the Court of District Judge to hear appeal after amendment of the valuation of the suit and the Hon'ble Apex Court has held that we are satisfied that no prejudice was caused to the appellants while their appeal having been heard by the District Court. There was a fair and full hearing of the appeal by the Court. It gave its decision on merits on a consideration of entire evidence in the case and no injustice is shown to have been resulted in its disposal of the matter so merely on account of defect in the pecuniary jurisdiction of the Court, the judgment was not held to be illegal.

3. This Court has held in ***Niranjan Lal (Dead) by his Legal Representatives versus Chhotey Lal, 1989 (1) RCR (Rent) 132*** that objection with regard to jurisdiction has to be raised at the first available opportunity as per the provisions of Section 21 of Civil Procedure Code and that where objection regarding the pecuniary jurisdiction of the Court was not raised at the earliest, the same cannot be taken before a Court executing the decree, unless it has resulted in failure of justice. Similar findings were recorded in ***Narain Kumar versus Neki Ram and others, 1984 (1) RCR (Rent) 362***.

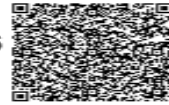
4. In ***Radhey Sham versus Gobind Lal and others, 1989 (2) RCR (Rent) 343***, again it was held that when objection was not taken with regard to the jurisdiction in the suit, the same cannot be taken in execution. It was held as under:-



“Section 21 of the Civil Procedure Code enacts that no objection to the place of suing should be allowed by the appellate or revisional Court, unless there was a consequent failure of justice. The objection regarding pecuniary jurisdiction was not raised in the suit by the contesting defendants it could not be raised in the execution proceedings.

5. The Hon’ble Apex Court has held in ***Subhash Mahadevasa Habib versus Nemasa Ambasa Dharmadas, 2007 (2) RCR (Civil) 662*** as under:-

“24. What is relevant in this context is the legal effect of the so-called finding in O.S. No. 4 of 1972 that the decree in O.S. No. 61 of 1971 was passed by a court which had no pecuniary jurisdiction to pass that decree. The Code of Civil Procedure has made a distinction between lack of inherent jurisdiction and objection to territorial jurisdiction and pecuniary jurisdiction. Whereas, an inherent lack of jurisdiction may make a decree passed by that court one without jurisdiction or void in law, a decree passed by a court lacking territorial jurisdiction or pecuniary jurisdiction does not automatically become void. At best it is voidable in the sense that it could be challenged in appeal therefrom provided the conditions of Section 21 of the Code of Civil Procedure are satisfied. It may be noted that Section 21 provided that no objection as to place the suing can be allowed by even an appellate or revisional court unless such objection was taken in the court of first instance at the earliest possible opportunity and unless there has been a consequent failure of justice. In 1976, the existing Section was numbered as sub- Section (1) and sub-Section (2) was added relating to pecuniary jurisdiction by providing that no objection as to competence of a court with reference to the pecuniary limits of its jurisdiction shall be allowed by any appellate or revisional court unless such objection had been taken in the first instance at the earliest possible opportunity and unless there had



been a consequent failure of justice. [Section 21A](#) also was introduced in 1976 with effect from 1.2.1977 creating a bar to the institution of any suit challenging the validity of a decree passed in a former suit between the same parties on any ground based on an objection as to the place of suing. The amendment by Act 104 of 1976 came into force only on 1.2.1977 when O.S. No. 4 of 1972 was pending. By virtue of Section 97(1)(c) of the Amendment Act, 1976, the said suit had to be tried and disposed of as if [Section 21](#) of the Code had not been amended by adding sub-Section (2) thereof. Of course, by virtue of [Section 97\(3\)](#) if [Section 21A](#) had to be applied, if it has application. But then, [Section 21A](#) on its wording covers only what it calls a defect as to place of suing.

6. It was held that when the civil suit was tried by a Court having no territorial jurisdiction, decree passed by the Court is not void when no objection to the jurisdiction was raised by the defendant, so, considering the fact that no objection as to the territorial jurisdiction of the Court was raised during the proceedings of the suit, now the petitioner cannot raise the objection in execution proceedings and the learned Executing Court has rightly dismissed the objection petition, as such, no interference in revisional jurisdiction of this Court is required and the instant civil revision petition is dismissed.

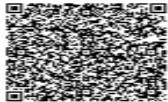
7. As a natural corollary, since the main case stands dismissed, all pending miscellaneous application(s), if any, shall also stand disposed of, as no fruitful purpose would be served by keeping them pending.

19th January, 2026
S. Pathania

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking?

Yes / No



Whether reportable?	Yes / No
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