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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CR-9551-2025****Date of Decision:13.01.2026****GURDARSHAN SINGH****...Petitioner****Vs.****DEWAN CHAND****...Respondent****CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present: Mr. Raj Kumar Rana, Advocate for the petitioner.

VIRINDER AGGARWAL, J. (Oral)

1. The present petition has been filed assailing the order dated 01.12.2025 passed by Additional Civil Judge (Senior Division), Ambala, whereby the objections filed by the petitioner have been dismissed.

2. Briefly stated, the suit for recovery instituted by the respondent/plaintiff was decreed ex parte. The petitioner contends that he was not duly served in the said suit and, accordingly, filed an application for setting aside the ex parte decree. The said application came to be dismissed for non-prosecution, and an application seeking restoration thereof is presently pending adjudication. In the meantime, the respondent/decreed-holder initiated execution proceedings. The petitioner filed objections to the execution, which were dismissed by the learned Civil Judge. Aggrieved thereby, the petitioner has assailed the order dismissing the objection petition by way of the present revision petition.

3. Learned counsel for the petitioner contends that the learned Civil Judge has failed to appreciate the material fact that the petitioner's application seeking restoration of his application under Order IX Rule 13 CPC is presently



pending adjudication before the learned trial Court. It is submitted that, if the impugned decree is permitted to be executed during the pendency of the said application, the very purpose of the restoration proceedings would stand defeated and the application would be rendered wholly infructuous. It is further argued that the petitioner was not duly served in the original suit and that the ex parte decree was obtained by the respondent by playing fraud upon the Court, which vitiates the entire proceedings.

4. Heard counsel for the petitioner and have gone through the file carefully.

5. A careful perusal of the impugned order clearly indicates that the learned Executing Court has not adequately considered the fact that the petitioner's application seeking restoration of his application under Order 37 Rule 4 of the Code of Civil Procedure, 1908, is currently pending adjudication before the trial court. It is submitted that, in the event the decree is executed during the pendency of the said application, the relief sought by the petitioner under Order IX Rule 13 CPC would be rendered wholly infructuous, thereby defeating the very object of the restoration proceedings. In such circumstances, it is submitted that the ends of justice would be best served if the interest of the decree-holder is appropriately secured prior to any stay of execution of the decree.

6. As per the decree, the suit was decreed in favor of the respondent/decreed-holder for recovery of a sum of ₹7,00,000/- along with interest at the rate of 1% per month from the date of execution of the pronote and receipt pronote until the date of the decree. In order to safeguard the interests of the decree-holder while ensuring that the petitioner's pending



application is not rendered infructuous, the petitioner/judgment-debtor has expressed his unequivocal willingness to furnish a bank guarantee to the extent of ₹12,00,000/-, thereby providing adequate security for the decretal amount, including interest. It is respectfully submitted that such a measure would strike a fair balance between protecting the rights of the decree-holder and preserving the petitioner's right to seek relief under the pending application.

7. In view of the foregoing, the present petition is disposed of with the direction that the execution of the judgment and decree shall remain stayed until the final disposal of the petitioner's application seeking restoration of application under Order 37 Rule 4 CPC. This stay is, however, subject to the condition that the petitioner shall furnish a bank guarantee to the extent of ₹12,00,000/- within a period of 15 days from the date of this order, undertaking to satisfy the decree. Compliance with this condition shall ensure that the interests of the decree-holder are adequately protected while permitting the petitioner to pursue his pending application without prejudice.

(VIRINDER AGGARWAL)
JUDGE

13.01.2026

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