



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

133

CR-8957-2025 (O&M)

Date of decision: 12.01.2026

Kuldeep Singh

...Petitioner(s)

Vs.

Mishri Lal and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Puneet Sharma, Advocate with
Ms. Shravya Doomra, Advocate
for the petitioner.

NIDHI GUPTA, J.

Present Civil Revision Petition under Article 227 of Constitution of India has been filed by defendant No.1 seeking setting aside of the judgment and decree dated 26.10.2015 (Annexure P-2) passed in Civil Suit No. 57 of 04.03.2010; whereby suit of the plaintiff/respondent No.1 has been decreed ex parte holding the plaintiff entitled to possession of suit property by way of specific performance of Agreement to Sell dated 13.01.2009.

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

04.03.2010: Plaintiff had filed Civil Suit for possession by way of specific performance of Agreement to Sell dated 13.01.2009 (Annexure P-1).

26.10.2015: Vide ex parte judgment and decree dated 26.10.2015 (Annexure P-2), the learned Civil Judge (Junior Division), Ludhiana, had decreed the suit of the plaintiff.



14.06.2016: After passing of ex parte judgment and decree dated 26.10.2015, defendants No. 2 to 5 had filed an application dated 14.06.2016 before the learned Additional District Judge, Ludhiana under Section 5 of the Limitation Act, seeking condonation of delay in filing the Civil Appeal. In the said application, it was pleaded by the said defendants that they came to know about the judgment and decree dated 26.10.2015 only on 26.04.2016. After obtaining copy of judgment and decree dated 26.10.2015, applicant Gurmeet Kaur/defendant No.2 had fallen seriously ill and remained bedridden; and therefore, the appeal could not be filed in time. Accordingly, condonation of delay was sought in filing Civil Appeal No.26 dated 15.07.2016.

6.3.2017: In the meantime, the plaintiff had initiated execution proceedings. In execution proceedings, objections filed by the petitioner was dismissed and Sale Deed dated 06.03.2017 was executed in favour of the decree holder/plaintiff/respondent

29.04.2017: Vide order dated 29.04.2017, the learned Additional District Judge, Ludhiana had dismissed the abovesaid application of the defendants No.2 to 5 under Section 5 of the Limitation Act for condonation of delay in filing the Civil Appeal; on the ground that applicant/defendant No.4 namely, Rajinder Pal Singh as AW1 had admitted in his cross-examination that judgment dated 26.10.2015 had come to their notice on 26.10.2015 itself and they did not apply for it for a period of 5 to 6 months.



27.09.2018: Against the said order dated 29.04.2017, defendants had preferred **Civil Revision No. 4778 of 2017** titled as **Gurmeet Kaur and others vs. Mishri Lal**; which was dismissed by this Court as infructuous vide order dated 27.09.2018 (Annexure P-4). The operative part of the order dated 27.09.2018 reads as under: -

"Learned counsel for the respondent refers to para No.16 of the impugned order and contended that knowledge in respect of decree passed by the trial Court was very much available to the defendants on 26.10.2015 itself. One of the petitioners i.e. Rajinderpal Singh while appearing as AW1 had admitted this fact in his cross-examination that they came to know about the decree dated 26.10.2015 and they did not apply for obtaining certified copy of the judgment and decree for 5-6 months.

In addition to the aforesaid, learned counsel submitted that in execution proceedings in respect of decree dated 26.10.2015, judgment debtors-petitioners have duly appeared and filed their objections in the execution. The objections were dismissed and thereafter, sale deed dated 06.03.2017 has already been executed in favour of the decree holder-respondent by process of the Court.

Even though the issue regarding condonation of delay was involved in the present revision petition but in a way, this revision petition has become infructuous as no lis survives after execution of sale deed with the process of the Court."

11.11.2024: The defendants No.2 to 5 had then preferred Special Leave to Appeal (C) No(s). 26386/2019, 28249/2019 and 30504/2019, which



were dismissed by the Hon'ble Supreme Court vide order dated 11.11.2024 (Annexure P-5).

3. It is thereafter, the present petitioner/defendant No.1 moved an application under Order 9 Rule 13 CPC read with Section 151 CPC for setting aside the ex parte judgment and decree dated 26.10.2015. The said application has been dismissed by the learned Civil Judge (Junior Division), Ludhiana vide order dated 13.11.2025 (Annexure P-6).

4. It is submitted by learned counsel for the petitioner that the petitioner came to know about the decree dated 26.10.2015 only on 02.09.2019 and had, thereafter promptly moved application under Order 9 Rule 13 read with Section 151 CPC. It is contended that earlier appeals/revisions filed by other defendants were collusive. It is argued that the impugned judgment has been passed without touching the merits of the matter and is, therefore, not sustainable as the impugned judgment has not been put to any serious challenge. Consequently, decree dated 26.10.2015 (Annexure P-2) remained untested on merits and continued to operate to great prejudice of the petitioner.

5. Learned counsel for the petitioner further contends that a perusal of impugned judgment and decree dated 26.10.2015 (Annexure P-2) clearly shows that the 4 basic tenets required for valid judgment under Order 20 Rule 4 CPC are not existent. It is submitted that all the issues have been framed. However, mere narration by the plaintiff in the absence of the defendants without any analysis/deliberation of the said evidence is not sufficient to maintain the impugned judgment. In



support, learned counsel for the petitioner relies upon judgments passed by the Hon'ble Supreme Court in **Kamal Kumar vs. Prem Lata Joshi and others, (2019) 3 SCC 704**; **C.S.Venkatesh vs. A.S.C. Murthy (SC)** **Law Finder Doc Id # 1681178**; and **K.P.Natrajan vs. Muthalammal (SC)** **Law Finder Doc Id # 1856190** and Madras High Court in **Muthukumar vs. Pari (Madras) (Madurai Bench)**; **Law Finder Doc Id # 2707330**; and **G. Selvam vs. Kasthuri (Madras): Law Finder Doc Id # 701467**;

6. It is accordingly prayed that present Civil Revision be allowed; and the impugned judgment and decree dated 26.10.2015 be set aside.

7. No other argument is raised on behalf of learned counsel for the petitioner. I have heard Id. counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the petitioner.

8. First and foremost, the present Civil Revision is not maintainable as admittedly, petitioner/defendant no.1 has not filed any Appeal against the impugned judgment and decree dated 26.10.2015. The said judgment and decree passed by the learned Civil Court, cannot be straightaway challenged before this Court without first availing the remedy available to the petitioner before the learned District Judge. Furthermore, on a Court query, learned counsel for the petitioner has admitted that even against the order dated 13.11.2025 (Annexure P-6), petitioner has not preferred any appeal. It is contended on behalf of the petitioner that when two remedies are available to the petitioner, it is open to him to choose any. It is but trite law that petitioner cannot lay



challenge to the judgment and decree dated 26.10.2015 without first approaching the learned First Appellate Court and cannot approach this Court directly. Due process of law cannot be given go-by; and mandatory procedures of law cannot be flouted.

9. Moreover, facts of the case speak for themselves. Once the defendants no.2 to 5 have remained unsuccessful up to the Hon'ble Apex Court, the petitioner cannot now agitate the same issue, which already stands finally laid to rest.

10. The aforesaid judgments relied upon by learned counsel for the petitioner are distinguishable on facts and law and petitioner cannot derive any benefit from the said judgments.

11. In view of the above, present Civil Revision Petition is **dismissed**.

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

12.01.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

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