



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

204

CR-5530-2026

Date of decision: 21.07.2026

Aman Arora

. . . . Petitioner

Vs.

Harpal Singh Banwait and another

. . . . Respondents

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Vikam Rathore and Ms. Isha Dhingra, Advocates,
for the petitioner.

DEEPAK GUPTA, J. (ORAL)

The present civil revision is directed against the orders dated 02.07.2026 (*Annexure P-9*) and 08.07.2026 (*Annexure P-10*) passed by the learned Civil Judge (Junior Division), Chandigarh, in Execution Petition No.313 of 2026 titled 'Harpal Singh Banwait and another v. Aman Arora', whereby the Executing Court dispensed with issuance of notice to the judgment-debtor and thereafter issued warrants of possession for execution of the ejectment order.

2. The facts, to the extent relevant for adjudication of the present revision petition, are that the respondents-landlords instituted an eviction petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking ejectment of the petitioner-tenant on the ground of non-payment of arrears of rent. During the proceedings, the learned Rent Controller, vide order dated 06.03.2026 (*Annexure P-4*), provisionally assessed the arrears of rent at ₹79,90,000/- and, after adding interest and costs, directed the tenant to tender a sum of ₹84,09,400/- on the adjourned date fixed i.e. 24.04.2026.

3. Admittedly, the petitioner failed to tender the provisionally assessed amount on the date fixed by the learned Rent Controller. Consequently, relying upon the law laid down by the Hon'ble Supreme Court in ***Rakesh Wadhawan and others v. Jagdamba Industrial Corporation and***

others, AIR 2002 SC 2004, as consistently followed thereafter, including by this Court in *Rajan @ Raj Kumar v. Rakesh Kumar, 2010 (1) Rent LR 515*, the learned Rent Controller passed an order of ejectment.

4. Aggrieved by the said order, the petitioner preferred a statutory appeal before the Appellate Authority, which is stated to be pending. During the pendency of the appeal, the landlords instituted Execution Petition No.313 of 2026 on 02.07.2026. Since the execution petition had been filed well within two years from the date of the ejectment order, the Executing Court, vide order dated 02.07.2026, dispensed with issuance of notice to the judgment-debtor and adjourned the matter for obtaining a report regarding any stay granted by the Appellate Authority. On 08.07.2026, upon receiving a report that no order staying execution had been passed by the Appellate Authority, the Executing Court issued warrants of possession.

5. Learned counsel for the petitioner has assailed the aforesaid orders on three grounds. *Firstly*, it is contended that once the statutory appeal against the ejectment order was pending, the Executing Court ought not to have proceeded with the execution. *Secondly*, it is argued that issuance of notice to the judgment-debtor after filing of the execution petition was mandatory and, therefore, dispensing with such notice renders the impugned orders unsustainable. *Lastly*, it is submitted that the petitioner is now ready and willing to tender the amount of provisional rent assessed by the Rent Controller and, therefore, the ejectment order should not be permitted to be executed.

6. Having considered the submissions advanced by learned counsel and perused the record, this Court finds no substance in any of the contentions raised.

7. The legal position governing the consequences of non-payment of provisional rent is no longer *res integra*. In *Rakesh Wadhawan (supra)*, the Hon'ble Supreme Court authoritatively held that once the Rent Controller provisionally assesses the arrears of rent and grants an opportunity to the

tenant to tender the same, failure to make such tender on the date fixed leaves no discretion with the Rent Controller except to pass an order of ejectment. The requirement of tendering the provisionally assessed rent within the time granted is mandatory, and failure to do so results in forfeiture of the tenant's statutory protection against eviction.

8. In the present case, learned counsel for the petitioner fairly does not dispute that the petitioner failed to tender the provisionally assessed amount on 24.04.2026, the date specifically fixed for that purpose. The ejectment order was, therefore, passed strictly in conformity with the law laid down by the Hon'ble Supreme Court and cannot be faulted in the present proceedings arising out of execution.

9. Equally devoid of merit is the contention regarding pendency of the statutory appeal. Mere filing of an appeal does not operate as a stay of the decree or order under challenge. Unless the appellate forum grants an order staying execution, the decree-holder remains entitled to execute the decree in accordance with law. The report obtained by the Executing Court specifically indicated that no order of stay had been passed by the Appellate Authority. In such circumstances, the Executing Court was under a legal obligation to execute the ejectment order and could not refuse execution merely because an appeal was pending.

10. The objection regarding non-issuance of notice to the judgment-debtor is equally untenable. The ejectment order sought to be executed had been passed on 06.03.2026, whereas the execution petition was instituted on 02.07.2026, i.e. well within two years thereof. In view of Order XXI Rule 22 CPC, issuance of notice to the judgment-debtor is not mandatory, where the execution application is filed within two years of the decree or order sought to be executed. The Executing Court, therefore, committed no jurisdictional error in dispensing with such notice before proceeding further.

11. It is also a settled principle that an Executing Court cannot travel behind the decree. Once the ejectment order had attained executable

character and there was admittedly no order staying its operation, the Executing Court was bound to enforce the same. The validity or correctness of the ejectment order falls exclusively within the domain of the appellate proceedings and cannot be examined by the Executing Court.

12. The last submission that the petitioner is now willing to deposit the provisionally assessed rent also deserves rejection. The opportunity to tender the provisional rent was specifically granted by the Rent Controller in terms of the mandate laid down in *Rakesh Wadhawan (supra)*. Having failed to avail that opportunity, the petitioner cannot seek to revive the statutory protection by offering payment after the ejectment order has already been passed. Acceptance of such a plea would completely defeat the law declared by the Hon'ble Supreme Court and render the mandatory consequences flowing from default wholly otiose.

13. Consequently, this Court is of the considered opinion that the learned Executing Court has acted strictly in accordance with law in dispensing with notice under Order XXI Rule 22 CPC and in issuing warrants of possession after verifying that no stay of the ejectment order had been granted by the Appellate Authority. The impugned orders neither suffer from any jurisdictional infirmity nor disclose any illegality, material irregularity or perversity warranting interference in exercise of the supervisory jurisdiction of this Court.

14. Accordingly, finding no merit in the present revision petition, the same is dismissed. It is, however, clarified that the observations made herein are confined to the legality of the execution proceedings and shall not prejudice the merits of the statutory appeal pending before the Appellate Authority, which shall be decided independently in accordance with law.

21.07.2026

Vivek

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned Yes
Whether reportable No