

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

CR-4049-2026**Date of decision: 13.05.2026****Deepak Jain**

. . . . Petitioner

Vs.

Gautam Jain and others

. . . . Respondents

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Mani Ram Verma, Advocate, for the petitioner.

DEEPAK GUPTA, J.

Petitions under Section 13 of the Haryana Urban Control of (Rent and Eviction) Act, 1973 filed by landlords Manoj Jain and others, including the present petitioner Deepak Jain, seeking ejectment of the respondents-tenants from the demised premises, were allowed by the learned Rent Controller, Jind vide order dated 02.01.2026 (Annexure P-1). Pursuant thereto, the decree-holders instituted execution proceedings on 28.04.2026 seeking delivery of possession of the demised premises. The learned Executing Court vide impugned order dated 05.05.2026 (Annexure P-4), instead of proceeding with the execution, ordered issuance of notice to the judgment-debtors/respondents for 19.05.2026.

2. Assailing the aforesaid order, learned counsel for the petitioners contends that the execution petition having been filed within two years from the date of the ejectment order, the learned Executing Court was not required to issue notice to the respondents under Order XXI Rule 22 CPC. It is argued that the Executing Court failed to exercise the jurisdiction vested in it by law by not proceeding forthwith for issuance of warrants of possession.

3. On a specific query put by this Court, learned counsel fairly submits that though the respondents have preferred an appeal against the



ejectment order before the Appellate Authority, no order staying operation of the ejectment decree or execution thereof has been granted. It is further submitted that mere pendency of an appeal does not operate as stay of the decree unless specifically ordered by the competent Court.

4. Learned counsel has also placed reliance upon the judgment passed by this Court in CR-1604-2015 titled ***Parminder Singh Sandhu Vs. Maninder Singh, decided on 11.03.2015***, wherein this Court had examined the scope and applicability of Order XXI Rule 22 CPC in similar circumstances.

5. For proper appreciation of the controversy, it would be apposite to refer to Order XXI Rule 22 CPC, which reads as under:-

“22. Notice to show cause against execution in certain cases.-

(1) Where an application for execution is made-

- (a) more than two years after the date of the decree, or
- (b) against the legal representative of a party to the decree or where an application is made for execution of a decree filed under the provisions of Section 44A, or
- (c) against the assignee or receiver in insolvency, where the party to the decree has been adjudged to be an insolvent,

the Court executing the decree shall issue a notice to the person against whom execution is applied for requiring him to show cause, on a date to be fixed, why the decree should not be executed against him.

Provided that no such notice shall be necessary in consequence of more than two years having elapsed between the date of the decree and the application for execution if the application is made within two years from the date of the last order against the party against whom execution is applied for, made on any previous application for execution, or in consequence of the application being made against the legal representative of the judgment-debtor if upon a previous application for execution against the same person the Court has ordered execution to issue against him.



(2) Nothing in the foregoing sub-rule shall be deemed to preclude the Court from issuing any process in execution of a decree without issuing the notice thereby prescribed, if, for reasons to be recorded, it considers that the issue of such notice would cause unreasonable delay or would defeat the ends of justice.”

6. A plain and meaningful reading of the aforesaid provision makes it abundantly clear that issuance of notice to the judgment-debtor is contemplated only in the contingencies specifically enumerated therein, namely, where the execution application is filed after expiry of two years from the date of decree or where execution is sought against legal representatives, assignees or receivers in insolvency. The legislative intent behind the provision is to afford an opportunity to the judgment-debtor in stale or exceptional executions. Conversely, where execution is initiated within two years from the date of decree, issuance of notice under Order XXI Rule 22 CPC is not mandatory.

7. In the present case, the ejectment order was passed on 02.01.2026 and the execution petition came to be filed on 28.04.2026, i.e. well within the period of two years prescribed under Order XXI Rule 22 CPC. Therefore, the contingency warranting issuance of notice to the judgment-debtors was not attracted.

8. It is equally well settled that an executing Court cannot travel beyond the decree and is duty bound to execute the same in accordance with law unless operation thereof has been stayed by a competent Court. Mere pendency of an appeal does not render the decree in-executable. In the absence of any interim order staying execution of the ejectment decree, the decree-holder cannot be deprived of the fruits of the decree lawfully obtained by him.

9. The impugned order further reflects that the learned Executing Court proceeded as if issuance of notice under Order XXI Rule 22 CPC was an invariable requirement in every execution petition. Such an approach is contrary to the scheme of the provision and defeats the very object of



expeditious execution proceedings, particularly in matters relating to eviction where delay itself causes serious prejudice to the decree-holder. 2026:PHHC:075349

10. In view of the above, the impugned order dated 05.05.2026 (Annexure P-4) cannot be sustained and is hereby set aside. The learned Executing Court is directed to proceed further with the execution petition expeditiously and in accordance with law, keeping in view the true scope and applicability of Order XXI Rule 22 CPC and the fact that no stay against execution of the ejectment order has been granted by the Appellate Authority.

11. The present petition stands disposed of accordingly.

13.05.2026

Vivek

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned
Whether reportable

Yes
No