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

CR-4106-2026

Date of decision: 15.05.2026

Jaswinder Singh

...Petitioner

Versus

Kulwinder Kaur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Manish Kumar Singla, Advocate and
Mr. Dinesh Kumar, Advocate for the petitioner.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 04.04.2026 passed by the Executing Court vide which the salary of the petitioner-Judgment Debtor No.1 has been attached for the execution of the decree in force.

2. The admitted facts in the present case are that respondent No.1 had filed a suit of possession through specific performance of the agreement to sell dated 09.05.2019 regarding the house in question. An alternate relief was also sought. The petitioner who was defendant No.1 did not appear in the said case and was proceeded against ex-parte on 08.10.2021. Defendant No.2 to whom the petitioner had sold the property vide sale deed dated 02.12.2019 appeared and contested the suit. The trial Court vide judgment and decree dated 16.03.2023 had granted the alternate relief of recovery of Rs.4,00,000/- to the plaintiff. In order to execute the said judgment and decree, respondent No.1 had filed the execution proceedings. An application under Order 21 Rule 41 read with Section 151 CPC was also filed by the decree holder. The Executing

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Court, vide order dated 04.04.2026 which is under challenge before this Court, had noticed that under the provisions of Order 21 Rule 41 CPC, the Court can direct the JD to examine himself to disclose as to whether he has any property or means to satisfy the decree and that the present petitioner had filed an affidavit stating therein that he has no moveable or immovable property except one motorcycle. Since it was not disputed that the petitioner was working as TTE in the Railway Department and has substantial salary, thus, the Executing Court issued the warrants of attachment of 1/3rd salary of the JD No.1 for the purpose of recovering the decretal amount.

3. The said order is in accordance with law and deserves to be upheld. It is matter of settled law that it is the duty of the Executing Court to execute the decree and since the petitioner in his affidavit has stated that there is no other property either moveable or immovable property except one motorcycle, thus, the course adopted by the Executing Court is in accordance with law.

4. Arguments raised by learned counsel for the petitioner to the effect that the application under Order 9 Rule 13 CPC has been filed by the petitioner which is pending adjudication would also not call for setting aside the impugned order as admittedly there is no stay granted, more so, with respect to execution proceedings. The said aspect has also been rightly dealt with by the Executing Court in the impugned order. On a pointed query raised by this Court as to whether the petitioner is ready to pay the money in order to avoid attachment order, learned counsel for the petitioner, on instructions, has submitted that the petitioner is not ready to pay the money.

5. The Hon'ble Supreme Court in the case of **"Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil"**, reported as **(2010) 8 Supreme**



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Court Cases 329, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227 but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

6. Keeping in view the above, this Court is of the opinion that the impugned order does not call for any interference by this Court while exercising its powers under Article 227 of the Constitution of India and accordingly, the impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is dismissed.

15.05.2026

Pawan

(VIKAS BAHL)
JUDGE

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