

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

(129)

CR No.2137 of 2015

Decided on: March 30, 2015.

**Sarwan Singh @ Swarn Singh (deceased) through L.Rs Kamlesh Rani
and another**

.... Petitioner

Versus

Manohar Lal (deceased) through L.Rs Sunita and others

..... Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. D.S. Gurna, Advocate,
for the petitioners.

M.M.S. BEDI, J (ORAL)

An application to stay the proceedings has been dismissed.

Learned counsel for the petitioners submits that the petitioners being L.Rs of judgment debtor have moved an application under Order 9 Rule 13 CPC for setting aside an exparte decree but the Executing Court has refused to stay the execution. I am of the opinion that provisions of Order 21 Rule 26 CPC authorise an Executing Court, upon sufficient cause having been shown, to stay the execution of a decree for a reasonable time to enable the judgment debtor to “apply” to the Court by which the decree was passed or to any Court having appellate jurisdiction in respect of the decree or execution thereof for an order to stay execution.

Learned counsel for the petitioners submits that till date the petitioners have not applied to the Court which passed the exparte decree for stay of the execution proceedings.

In view of said circumstances, this petition is disposed of as pre-mature with liberty to the petitioners to apply to the Court which passed the decree and is seized of the matter under Order 9 Rule 13 CPC for staying the execution.

In case any such application is filed, the Court where the application under Order 9 Rule 13 CPC is pending would expeditiously dispose of such petition taking into consideration the circumstances which have been pointed out in the present petition.

(M.M.S. BEDI)
JUDGE

March 30, 2015
harsha