

CR-2886-2015 (O&M)

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

**CR-2886-2015 (O&M).
Decided on: April 30, 2015.**

Rajni

..... Petitioner(s)

Versus

Thakar Singh and another

..... Respondent(s)

*** * ***

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

**PRESENT Mr.Roopak Bansal, Advocate,
for the petitioner.**

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

Petitioner is a third party objector in execution proceedings initiated by Thakar Singh respondent No.1 against judgment debtor Chanderpal respondent No.2. The objections were dismissed by the executing Court vide order dated 16.4.2015. Since the adjudication by executing Court of objections is subject to an appeal, petitioner-objector had filed an appeal which is stated to be pending before the Court of Sh.Sham Lal, Additional District Judge, Amritsar. Since the appeal is accompanied by an application for condonation of delay of one day in filing of the appeal which is stated to be a debatable cause, the application for staying the execution proceedings is not to be adjudicated upon. Warrant of possession against the petitioner is sought to be executed by the executing Court by 16.4.2015 and now by 1.5.2015.

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The petitioner has preferred the present revision petition invoking the jurisdiction of the Court under Article 227 of the Constitution of India.

The claim of the petitioner is that petitioner had become owner in possession in the year 2000 whereas the suit for specific performance was filed in the year 1995 which was decreed in October 2005. The petitioner claims that she is bona fide purchaser of the property in dispute for consideration without the knowledge of litigation. Decree for specific performance obtained by respondent No.1 is an ex parte decree. It is claimed that respondent No.2 had not contested the suit for specific performance having lost the same after having sold the property fraudulently to the petitioner.

Taking into consideration the above circumstances, it is apparent that the petitioner is being deprived of an effective hearing in the appeal on account of delay of one day in filing of the appeal dis-entitling the appellate Court to adjudicate upon the stay application during pendency of the decision of the appeal against dismissal of objections on merits. It will be expedient, in the interest of justice, if without expression of any opinion on the maintainability of the objections or the merits of the objections, the rights of the petitioner are protected for a short duration till the decision of question of delay by the Appellate Court. on 14.5.2015.

This revision petition is disposed of accordingly. It is ordered that the status quo regarding possession will be maintained

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till the decision of the application for condonation of delay and the decision of the application for interim relief by the said Court. It is further directed that the learned Additional District Judge, Amritsar, will positively decide the application for condonation of delay in filing of the appeal on 14.5.2015 or within a period of one week thereafter and would also consider the application for interim relief and would expeditiously decide the objections subject to the decision of application under Section 5 of the Limitation Act.

Nothing said in this order will prejudice the rights of the decree holder- respondent No.1 at the time of decision of any misc. application or final disposal of the appeal. This order is not meant to be read as a precedent that interim relief can be granted during pendency of the application for condonation of delay but the order has been passed taking into consideration the peculiar facts of this case warranting exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

April 30, 2015.
rka

(M.M.S. BEDI)
JUDGE