

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 2701 of 2014 (O&M)
Date of decision: 23.07.2015

Harmail Singh

... Petitioner

versus

Surinder Kaur and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Sunny K. Singla, Advocate for the petitioner.

Mr. Munish Raj, Advocate for
Mr. Gopal Singh Nahel, Advocate,
for respondent No.1.

K.Kannan, J.

Counsel for respondent No.1 is not ready to argue and asked for an adjournment. I discard his plea and proceed to take up the matter on merits.

The revision is against an order declining to grant stay of execution pending in application for disposal of the petition to set aside the *ex parte* decree. The decree was passed in the year 2005 on an endorsement that the defendant could not be served since he was not residing at the given address. Change of address was not intimated to the plaintiff. The application for setting aside the *ex parte* decree was filed only after the notice of execution was served in the year 2012.

This Court while ordering notice has come by subsequent

orders secured deposit of Rs. 2 lacs to the credit of the suit. I would think that the Court has imposed sufficient condition to test the *bona fides* and allow for the contest to proceed. The amount which is ordered to be deposited is permitted to be withdrawn without any security by the plaintiff subject to the undertaking that he will refund the amount with interest @ 9% if the suit is dismissed. The amount received will be treated as in satisfaction of any liability if the suit is decreed subsequently.

The impugned order is set aside and there shall be stay of proceedings in execution till the final disposal of the application under Order 9 Rule 13.

The civil revision petition is disposed of with above observations.

(K.KANNAN)
JUDGE

23.07.2015
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