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

CR No.4704 of 2015

Date of decision: July 28, 2015

Dhangel Singh

.....Petitioner

Versus

Nirmal Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Sunil Agnihotri, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 29.04.2015.

Learned counsel for the petitioner has submitted that petitioner had moved an application under Order 9 Rule 13 of Code of Civil Procedure, 1908 ('CPC' for short) for setting aside the *ex parte* proceedings against him. During the pendency of the said application, the execution proceedings were liable to be stayed.

Respondent had filed suit for recovery against the petitioner on the basis of pronote and receipt dated 08.11.2004. Suit filed by the respondent was decreed in *ex parte* vide judgment/decreed dated 15.10.2009. Respondent initiated execution proceedings. In execution proceedings also, petitioner was proceed *ex parte*. However, vide order dated 10.10.2014, *ex parte* proceedings against the petitioner

in execution proceedings were set aside, subject to payment of ₹2,500/- as costs. Thereafter, petitioner moved an application for staying the execution proceedings till the decision of the application moved by him under Order 9 Rule 13 CPC for setting aside the *ex parte* decree dated 15.10.2009. The learned executing Court rightly dismissed the application as the decree sought to be executed had not been stayed by the Court. Since there was no stay qua the execution of the decree, the executing Court was bound to execute the decree.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

July 28, 2015

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