

204.

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

**Civil Revision No.7935 of 2015**

Date of decision: 09.12.2015

Tarsem and others

... Petitioners

versus

Harmohinder Singh and others

.... Respondents

**CORAM: HON'BLE MR. JUSTICE K. KANNAN**

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Present: Mr. Vivek Aggarwal, Advocate,  
for the petitioners.

Mr. Sunder Singh, Advocate, and  
Ms. Rupinder Kaur, Advocate,  
for respondents 1 and 2.

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1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

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**K.Kannan, J. (Oral)**

1. The counsel for the petitioner says that 4<sup>th</sup> respondent is a pro forma respondent and no notice is necessary. Notice to 4<sup>th</sup> respondent is dispensed with. Having regard to the nature of order that was put in challenge in this revision, I dispense with notice to 3<sup>rd</sup> respondent for the present. The parties who could be effected by the pendency of the civil revision will be only the respondents 1 and 2 and are represented through counsel.

2. The revision is against an order issuing notice in an appeal filed by a third party objector before the Executing Court and who after obtained an adverse order, has preferred a Civil Misc. Appeal. The appellate court has directed notice to the decree holder and against the issuance of notice, this revision petition has been filed. It would appear that after the service of notice to the decree holder, they have taken time to file reply and it is now posted to a date in December 2015.

3. The third party objector has his objection to a decree for specific performance that has been granted in favour of the decree holder pursuant to which a sale deed has also been executed. The objection is brought at the instance of a person who had failed in an attempt to implead himself as a party in suit claiming as a rival agreement holder. As of now, admittedly the third party objector has no document of sale and claims it from the same vendor who was the third defendant who had entered into an agreement with the plaintiff on the basis of which the latter has a decree after a full-fledged contest. It is again admitted between parties that the vendor has himself preferred an appeal and the second appeal is pending but there existed no order of stay. A decision to issue notice in an appeal without granting an interim order is not a case decided for an intervention by a court of revision. This is an utter abuse of process for a person to come to this court and obtain an order of stay. It will

be only left to the court of appeal to consider whether the stay could be granted or not. At least, prima facie for this court to intervene, I will take two issues to be relevant. One, the person who is prejudiced must have a very strong case and the prejudice that could be caused could be so paramount that a protection would be necessary. The second issue must be that the impugned order must be perverse on its face and it was without jurisdiction. A manner of issuing notice in an application for stay is not a perverse order. It is a manner of securing what is appropriate and just for eliciting objections from the other side. A rival agreement holder who could not get himself impleaded in suit to obstruct a decree holder to secure possession has a long way to travel before he can prevail upon a court to accept his plea and protect his possession. It was not a prima facie case for the petitioner to secure protection of this court, for, what was the subject of revision was not even capable of being challenged in this court. Revision petition is without merit and it is dismissed.

**(K.KANNAN)**  
**JUDGE**

09.12.2015  
sanjeev