

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

CR No. 2268 of 2016

Date of decision: 30.03.2016

Jagmohan Singh

..... Petitioner

Versus

Bhupinder Kaur

.....Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Sham Lal Bhalla, Advocate
for the petitioner.

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred against the order dated 04.01.2016, vide which the learned Executing Court has dismissed the application filed by the petitioner for staying the execution proceedings.

2. Learned counsel for the petitioner contended that the appeal against the order which is sought to be executed is pending. The learned trial Court should have stayed the execution proceedings during the pendency of the appeal. He further contended that even an application for passing the final decree is still pending. Thus, he contended that if the execution proceedings are proceeded further, it will cause prejudice to the rights of the petitioner. Hence, the execution proceedings are liable to be stayed during the pendency of the appeal.

I have duly considered the aforesaid contentions.

4. The respondent has filed an application under Order 39 Rule 2-A Code of Civil Procedure, 1908. In the said order, the learned trial Court has recorded the findings that the petitioner has disobeyed the order dated 25.08.2009 passed by the learned Civil Judge (Jr. Division), Ludhiana and he was directed to handover the possession of the suit premises to the applicant-respondent. His property was ordered to be attached till the possession is handed over to the respondent-applicant. That order is being executed by the respondent.

5. This fact is not disputed that the petitioner has preferred the appeal against the order dated 10.09.2014 which is stated to be pending in the Court of learned Additional District Judge, Ludhiana. The learned Executing Court has dismissed the application for staying the execution proceedings on the plea that no stay order has been issued by the Appellate Court and there was no ground for staying the execution proceedings. Learned counsel for the petitioner has only raised the plea that as the appeal against the order dated 10.09.2014 is pending, so, the execution of that order should be stayed. But, this plea has no merit as mere pendency of the appeal is no ground to stay the execution proceedings. To support this view reference can be made to cases **Swarn Singh and others Vs. State of Punjab and others 2014(4) PLR 327, Hashmat Vs. Tilak Raj and others 2011(4) Law**

Herald 3581 and **Anil Mondal Vs. Subarnamoy Ghosh and others 2014(2) Cal. H.C.N 267.** The pendency of the application for passing the final decree is a separate matter. Thus, the impugned order does not call for any interference by this Court.

6. Resultantly, the present revision petition having, no merits, is hereby dismissed.

30.03.2016

S.khan

(DARSHAN SINGH)
JUDGE