

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

CR No. 3534 of 2016 (O&M)

Date of decision: 01.06.2016

Surinder Singh

... Petitioner

versus

Kulbir Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

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

K.Kannan, J. (ORAL)

CM No. 11763-CII-2016

CM is allowed.

The date fixed in the civil revision is preponed and the same is taken up today itself for final disposal.

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The proper remedy for the petitioner is to move and application for stay before the Appellate Court where the appeal is said to be pending against the order declining to set aside the ex-parte decree. No objection can be taken at the execution stage against the executability of the decree and the Executing Court also will not fetter its own jurisdiction to make way for further objection unless the Appellate Court had stayed the decree.

The petitioner's grievance is that the Appellate Court is merely directing notice of the appeal and it has not considered the prayer for stay. I direct the Appellate Court to consider the prayer for stay if application is pending and dispose it of within a week from the date of the receipt of the copy of the order. If the objection is also not filed, the Court will consider any application that may be filed at

the Appellate Court for stay and proceed to pass such orders as necessary even at the ex parte stage if service is not complete.

The revision petition is disposed of with the above observation.

(K.KANNAN)
JUDGE

01.06.2016

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