

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.3827 of 2016 (O&M)
Date of decision:31.05.2016

Gurdev Singh

... Petitioner

Vs.

Hardeep Kaur and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. P.K.Ganga, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

Petitioner-decree holder is aggrieved of the impugned order dated 16.05.2016 (Annexure P-6), which reads thus:-

“Power of attorney on behalf of the defendant/judgment debtor No.2 filed by Shri D.V. Kulria, Advocate. Learned counsel for judgment-debtor has produced copy regarding special leave petition (civil) 9596 of 2016 before the Hon'ble Apex Court of India, which the subject matter of the present execution and same is likely to be listed on 29.06.2016. Further ld. Counsel for judgment-debtor has requested an adjournment on the ground that one opportunity may kindly be provided to judgment-debtor to pursue his case and to file objections,

which is opposed by counsel for decree-holder. Decree holder has specifically stated that there is no stay in the present case. Though there is no stay from the Apex Court but to maintain judicial discipline as well as for filing objections by judgment debtor, case is adjourned to 29.07.2016, for further proceedings.”

Mr. P.K.Ganga, learned counsel appearing on behalf of the petitioner submits that judgment and decree dated 09.03.2010, seeking possession of the suit property by way of specific performance had been passed in favour of the decree holder and the same had attained finality upto this Court in RSA No.5500 of 2014 decided on 09.12.2015. During the interregnum, an execution application was filed, despite the fact that there was no interim stay, it was adjourned sine die. On 09.02.2016, an application was filed for renewal of the execution application. On receipt of the notice, the trial Court passed the aforementioned order. He further submits that trial Court ought not to have proceeded further with the request of the defendant as the judgment and decree can be executed in any manner as more than almost 5 months have expired after dismissal of the Regular Second Appeal, yet the Court cannot wait for other party to file an appeal and obtain the order and the judgment and decree of the Court has to be honoured and respected.

I have heard learned counsel for the petitioner-decree holder and appraised the paper book and of the view that approach of the trial Court is not appreciable, much less, is very preposterous. The Court cannot

wait for outcome of the alleged pendency of the SLP, much less, appeal. Opportunity is granted to other party to file objections. In my view, the Court below ought to have proceeded with the execution proceedings as there is no interim stay by any of the Higher Court. Special Leave Petition is not statutory right as leave has been sought before the Hon'ble Supreme Court. Until and unless, leave has not been granted, the Court cannot wait for the outcome. Petitioner is granted liberty to file an application for pre-ponement of the execution application and the Court below is directed to proceed further with the execution application, in accordance with law.

Accordingly, revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

May 31, 2016
savita