

Civil Revision No. 4712 of 2016

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 4712 of 2016

Date of Decision: 26.7.2016

Surinder Pal

--- Petitioner

versus

Ajaib Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. G.S.Dhindsa, Advocate
for the petitioner**

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

Rekha Mittal, J.

The present petition has been directed against order dated 21.5.2016 (Annexure P-1) passed by the Civil Judge (Junior Division), Shaheed Bhagat Singh Nagar.

Counsel for the petitioner has submitted that on an earlier

occasion, when the executing Court ordered for issuance of warrants of possession, the petitioner filed Civil Revision No. 1565 of 2016 wherein stay was granted vide order dated 3.3.2016 (Annexure P-2). Later, the said petition was withdrawn on May 16, 2016. In the intervening period on 18.3.2016, the petitioner preferred an appeal against the judgment and decree dated 30.9.2014 passed by the trial court for possession by way of specific performance of the agreement to sell. It is argued that as the appeal is pending before the first appellate court, the executing court should have refrained from executing the decree by issuance of warrants of possession.

I have heard counsel for the petitioner, perused the paper book and various annexures appended with the petition.

Be that as it may, pendency of an appeal against a decree passed by the trial court would not automatically amount to stay of execution proceedings initiated at the instance of successful decree holder. If the petitioner has filed an appeal to express his grievance against the judgment and decree passed by the trial court, he may, if so advised, file an appropriate application for staying operation of the judgment and decree passed by the trial Court, challenged in appeal. Till the time, the execution of decree is stayed by a higher court, no error much less illegality can be

found in the impugned order whereby the executing court has ordered issuance of warrants of possession for satisfaction of the decree passed in favour of the decree holder/respondents. This apart, in case the judgment and decree passed by the trial court is set aside in an appropriate proceedings, the petitioner would be at liberty to seek restitution, in accordance with law.

In view of the above, I do not find any error much less illegality in the impugned order warranting intervention. However, the petitioner shall be at liberty to file an appropriate application before the appellate Court for stay.

(Rekha Mittal)
Judge

26.7.2016
PARAMJIT