

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

Civil Revision No.5004 of 2016

Date of decision : 08.08.2016

Amrit Kaur and another

.....Petitioners

Versus

State Bank of Patiala

...Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. G.S. Dhillon, Advocate for petitioners.

DARSHAN SINGH, J.

The present revision petition has been preferred against the order dated 19.07.2016 passed by the learned Civil Judge (Senior Division), Patiala, vide which the objections filed by the petitioner-judgment debtor No.1 have been dismissed.

2. Learned counsel for the petitioner contended that it is an admitted fact that the regular second appeal No.4427 of 2015 filed by the petitioners-judgment debtors is pending before this Court, which is likely to succeed. Thus, he contended that the learned executing Court should have stayed the execution.

3. The aforesaid contentions raised by learned counsel for the petitioners are without any substance.

4. Mere this fact that the petitioners have preferred the appeal against the decree being executed, is no ground to stay the execution. As per

Order 41 Rule 5 of the Code of Civil Procedure, 1908 the execution of a decree cannot be stayed by reasons only of an appeal having been preferred from the decree. It is only the appellate Court which may stay the execution of the decree for sufficient cause. Thus, the objections preferred by the petitioner-judgment debtor No.1 was just an attempt to stall the execution proceedings and the learned executing Court has not committed any illegality in dismissing such objections.

5. Thus, in view of the aforesaid discussion, the present revision petition is without any merit and the same is hereby dismissed.

08.08.2016

sunil yadav

(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No