

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

CR No.5229 of 2016(O&M)

Date of decision:17.8.2016

Sarip Deen and others

....Petitioners

VERSUS

Pala Ram and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Deepak K. Sharma, Advocate for the petitioners.

REKHA MITTAL, J. (Oral)

The present petition has been directed against order dated 28.07.2016 (Annexure P-4) passed by the Civil Judge (Senior Division), Yamunanagar at Jagadhri, whereby prayer of the petitioners/defendants for staying the execution proceedings has been dismissed.

Counsel for the petitioners has submitted that the respondents/plaintiffs No.1 to 3 filed a suit for possession and permanent injunction that was decreed by the trial Court vide judgment and decree dated 11.12.2014. The petitioners have filed an application under Order 9 Rule 13 of the Code of Civil Procedure, 1908 for setting aside the ex parte judgment and decree and the same is pending adjudication. It is argued that in case the respondents/plaintiffs are successful in executing the decree it would cause irreparable loss to the petitioners, therefore, the execution proceedings are liable to be stayed pending decision of the application for setting aside the ex parte decree.

I have heard counsel for the petitioners but do not find any merit in the petition.

Be that as it may, if the respondents/plaintiffs are successful in obtaining possession in execution of the ex parte decree and ultimately the said decree is set aside in appropriate proceedings, the petitioners shall be entitled to seek restitution of the property lost in pursuance of the decree passed by the Court and as such, there is no question of the petitioners suffering any irreparable loss or injury, in case the stay is not granted. This apart it is not the plea that respondent/decreed holder can be accused of delaying the proceedings for setting aside ex parte decree.

In view of the above, I do not find any error much less illegality in the impugned order as would call for intervention.

Dismissed in *limine*.

AUGUST 17, 2016

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no