

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

**C.R. No.8116 of 2016
Date of Decision.02.12.2016**

Surinder Singh and others

.....Petitioners

Vs

Grewal Sports Association and others

.....Respondents

Present: Mr. Vaibhav Sehgal, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The prayer in the revision petition is for direction to the Executing Court to decide the Execution Application No.1212 of 2015 arising out of judgment and decree dated 28.09.2015 passed by the Additional District Judge in Civil Appeal No.40 of 2012 and confirmed by this Hon'ble Court in RSA No.111 of 2016 and RSA No.82 of 2016 in a time bound manner.

Mr. Vaibhav Sehgal, learned counsel appearing for the petitioners submits that the suit was decreed by the trial Court for declaration but the lower Appellate Court granted mandatory injunction also. It is in this backdrop of the matter, two regular second appeals came to be filed by the other side. The aforementioned regular second appeals bearing RSA Nos.82 and 111 of 2016 were dismissed as withdrawn. During the pendency of the appeals, submission was made by the defendants-JDs/appellants that they will hand over the possession in terms of the judgments and decrees passed by both the Courts below and this Court vide order dated 27.01.2016, stayed the execution proceedings in

view of the aforementioned undertaking.

The counsel for the petitioners submits that though the aforementioned regular second appeals were ultimately dismissed as withdrawn but despite having been given the undertaking to hand over the possession, third party objections have been filed at the instance of the JDs and he has drawn attention of this Court to the zimini orders starting from page 20 onwards.

On going through the zimni orders, it appears that the objections have been filed by third party and on four occasions, the Executing Court passed the order noticing that the consideration on the objections was not addressed and thereafter, an application was moved for framing of the issues and reply thereto has also been filed. The decree holders had moved application on 01.09.2016 for preponing of the matter and the counsel for the objectors/JDs sought time as he had to file the reply and then two adjournments were sought for filing reply and the executing court had been adjourning the application for preponment from time to time.

It is strange that the trial Court without noticing the prayer in the application had been treating the application in a most casual manner. The purpose of seeking the preponment is defeated in the manner and mode the orders are passed. The Court should circumspect in doing so rather should have passed any order either rejecting the prayer or otherwise, but not in the manner and mode as noticed above.

I have been told that the next date before the court below is today i.e. 02.12.2016. The judgment debtors despite having been given undertaking as per the order dated 27.01.2016, which is reproduced here-in-below but yet third party objections have been filed:-

*“Learned counsel for the appellant, on instructions from
his client submits that execution proceedings be adjourned till*

15.02.2016 and on that day possession shall be handed over in terms of the judgment and decree passed by the court below.

Learned counsel for caveator-respondents has no objection to that.

Accordingly adjourned to 16.02.2016.

Meanwhile execution proceedings before the Court below shall remain stayed.

Photocopy of this order be placed on the file of connected cases.”

In my view, the Executing Court has to take into consideration all these factors and decide the execution application and objections, if any, in accordance with law. Accordingly, the Executing Court is directed to decide the execution application and objections, if any, as expeditiously as possible and preferably within a period of six months from the date of receipt of certified copy of this order. The revision petition stands disposed of with the above directions.

(AMIT RAWAL)
JUDGE

December 02, 2016

Pankaj*

Whether speaking/reasoned Yes

Whether reportable No