

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

Sr. No.112

CR No.2090 of 2017

DECIDED ON: May 03, 2017

RAM CHANDER

..PETITIONER

VERSUS

BACHAN KAUR & ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Baldev Singh Dhillon, Advocate,
for the petitioner.

JASPAL SINGH, J. (ORAL)

Through the instant revision petition preferred under Article 227 of the Constitution of India, petitioner has sought the setting aside of order dated February 28, 2017 (Annexure P-1), passed by learned Additional Civil Judge (Sr. Divn.) Pehowa, whereby the objection petition has been dismissed with further prayer for allowing the objection petition (Annexure P-2).

2. The contention of the learned counsel for the petitioner is that the present petitioner and proforma-respondents No.12 & 13/defendants being aggrieved from the judgment passed by the trial court dated May 28, 2011 and the judgment & decree passed by the lower appellate court dated

CR No.2090 of 2017

November 07, 2013 has filed Regular Second Appeal No.1162 of 2014 titled as “Ram Chander & ors. vs. Sewa Singh & ors.”, which is pending disposal in this court, in which notice of motion has already been issued and now the same is listed for August 17, 2017.

3. Admittedly, in the aforesaid Regular Second Appeal, no stay has been granted. However, on account of pendency of the aforesaid Regular Second Appeal, an objection petition was filed before the executing court with the plea that since the Regular Second Appeal is pending, the execution proceedings be stayed. But, it is well settled proposition of law that once the higher court is seized of the matter, the executing court cannot stay the execution proceedings until and unless there is stay by the higher court. Thus, the objection petition has rightly been dismissed by the learned executing court vide impugned order February 28, 2017. Otherwise also, if at all, the petitioner is aggrieved of the pendency of the execution application, he may approach to the court which is seized of the Regular Second Appeal for the redressal of his grievance.

4. Dismissed.

May 03, 2017
Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No