

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.2574 of 2017
Date of decision: 25.07.2017

Jagtar Singh

... Petitioner

Vs.

Lukhwinder Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Vikram Satpal Anand, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the order dated 05.12.2016 passed by the learned executing Court, whereby application moved by the judgment-debtor seeking stay of the execution was declined, he has approached this Court by way of instant civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order (Annexure P-2).

Heard learned counsel for the petitioner.

It seems that the petitioner had been proceeding on a casual approach right from day one. It is a matter of record that an ex-parte decree had already been passed against him long back i.e. on 24.02.2015. When the decree-holder filed the execution and judgment-debtor was served in the execution, he moved an application before the learned executing Court, seeking stay of execution solely on the ground that the judgment-debtor was intending to file an application under

Order 9 Rule 13 of the Code of Civil Procedure ('CPC' for short) for setting aside the abovesaid ex-parte decree. The learned executing Court rightly passed the impugned order observing that mere intention of the judgment-debtor to file an application under Order 9 Rule 13 CPC would not be sufficient to stay the execution. Having said that, this Court feels no hesitation to conclude that the learned executing Court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

When learned counsel for the petitioner was asked to point out whether the application under Order 9 Rule 13 CPC was, as a matter of fact, filed by the petitioner even after passing of the impugned order, he expressed his ignorance in this regard. If that is so, petitioner still does not seem to be interested in pursuing the pending litigation against him. It is so said because the moment petitioner came to know about the abovesaid ex-parte decree dated 24.02.2015, the immediate and first step, which he ought to have taken, was filing an application under Order 9 Rule 13 CPC for setting aside the ex-parte decree. However, he did not do so, for the reasons best known to him. Under these circumstances, no fault can be found with the impugned order passed by the learned executing Court, because no error of law has been committed by the learned Court below, while passing the impugned order and the same deserves to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order passed by the learned executing Court, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. In fact, the impugned order passed by the learned executing

Court has been found based on sound reasons, because of which the impugned order deserves to be upheld, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since no illegality has been found in the impugned order passed by the learned executing Court, the same deserves to be upheld. The revision petition having been found wholly misconceived, bereft of merit and without any substance, must fail. No ground for interference has been made out.

Resultantly, with the abovesaid observations made, present civil revision petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

25.07.2017
vishnu

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No