

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

Sr. No.124

Civil Revision No.3978 of 2017 (O&M)
DECIDED ON: May 31, 2017

RAJ RANI AND OTHERS

..PETITIONERS

VERSUS

SAROJ RANI AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Sarju Puri, Advocate,
for the petitioners.

JASPAL SINGH, J. (ORAL)

CM No.12378-CII of 2017

Application is allowed as prayed for.

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Through the instant civil revision petition preferred under Article 227 of the Constitution of India, petitioners have sought issuance of directions to the learned Additional District Judge, S.B.S. Nagar to hear and decide the application moved by the petitioners along with first appeal under Order XLI Rule 5 CPC for staying the operation/execution of the judgment and decree dated February 27, 2017 expeditiously.

2. A perusal of the file reveals that an appeal for the first time was taken up by the Incharge, District Judge, S.B.S. Nagar, Nawashahr on April 05, 2017. Since, the appeal was accompanied by a caveat filed by Sh. Vikas

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Narad, Advocate, notice was ordered to be issued to Sh. Vikas Narad, Advocate for April 10, 2017. The service upon the contesting respondents was completed on April 21, 2017 as Sh. Vikas Narad, Advocate appeared and filed his power of attorney. The notice was ordered to be issued to respondents No.2 to 5 for May 20, 2017. But, it appears from the memorandum of appeal that the respondents No.2 to 5 are proforma respondents. An application moved by the petitioners under Order XLI Rule 5 CPC still remains to be disposed of and now the matter is listed for July 08, 2017. It has also been pointed by learned counsel for the petitioners during the course of arguments that an execution of the judgment and decree dated February 27, 2017, which is under challenge has also been filed by the respondent No.1. In case, the decree is implemented the very purpose of the appeal would stand defeated.

3. Thus, taking into consideration the aforesaid aspects of the case, instant petition is disposed of with the direction to the lower appellate court to dispose of an application under Order XLI Rule 5 CPC either on July 08, 2017, the date already fixed in the matter or maximum within a period of one month therefrom.

May 31, 2017

Ankur

**(JASPAL SINGH)
JUDGE**

**Whether speaking/reasoned
Whether reportable**

**Yes/No
Yes/No**