

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

**CR No.5754 of 2016
Date of Decision: 24.10.2017**

Kuldeep Singh

.....Petitioner

Vs

Subhash Chander

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Raman Chawla, Advocate
for the petitioner.

Mr. Shailender Mohan, Advocate
for the respondent.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has filed this revision petition against the order dated 27.07.2016 passed by Civil Judge (Senior Division), Hansi whereby the objections filed by the petitioner in execution of *ex parte* decree were dismissed.

[2]. While issuing notice of motion, following order was passed on 05.09.2016:-

“Learned counsel for the petitioner contends that application under Order 9 Rule 13 CPC has already been filed before the trial Court. Simultaneously, objections under Section 47 CPC were also filed before the Executing

Court. Learned counsel for the petitioner contends that under Order 21 Rule 26 CPC, the Executing Court has all the powers to stay execution of a decree for a reasonable time in order to enable the judgment debtor to apply for the lawful relief in the proceedings under Order 9 Rule 13 CPC. Learned counsel also refers to Narinder Kumar Vs. M/s. N.K. Electronics 2010(5) RCR (Civil) 697.

Notice of Motion for 07.11.2016.

Till then Executing Court is directed to adjourned to case beyond the date fixed by this Court.”

[3]. The aforesaid order was passed on the premise that the proceedings under Order 9 Rule 13 CPC for setting aside the *ex parte* decree are pending in which prayer for stay of execution was also made. On the other hand, in the Executing Court, the objections were filed and the same were dismissed vide the impugned order.

[4]. Since the Executing Court has all the powers to stay execution of a decree in terms of Order 21 Rule 26 CPC for a reasonable time in order to enable the judgment debtor to obtain lawful relief in the proceedings under Order 9 Rule 13 CPC. Therefore it would be appropriate to direct the Executing Court to decide the application for stay (if any) pending in the proceedings under Order 9 Rule 13 CPC. If such an application is pending before the Executing Court, the same shall be decided within a period of one month from the date of receipt of

certified copy of this order. If there is no such application pending before the Executing Court, then the Executing Court shall proceed to execute the decree in accordance with law.

[5]. Disposed of accordingly.

24.10.2017

(RAJ MOHAN SINGH)
JUDGE

Prince

Whether speaking/reasoned Yes/No

Whether reportable Yes/No