

CR No.1280 of 2018

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

CR No.1280 of 2018

Date of decision:23.02.2018

Yograj and others

... Petitioners

Vs.

Varinder Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Jaideep Verma, Advocate
for the petitioners.

AMIT RAWAL J. (Oral)

The present revision petition is directed against the impugned order dated 04.01.2018 (Annexure P-11), whereby, in the pending application under Order 21 Rule 32 of Code of Civil Procedure filed by the respondent/decreed holder, for implementation of the ex parte judgment and decree dated 08.12.2012, warrant of possession qua suit property, was issued.

Mr. Jaideep Verma, learned counsel for the petitioner/judgment debtors submitted that the aforementioned ex parte judgment and decree was obtained by playing fraud upon them and managing the service. After having acquired the knowledge, an application dated 29.01.2014 under Order 9 Rule 13 of Code of Civil Procedure, was moved for setting aside the ex parte judgment and decree alongwith prayer for interim stay. Notice of the application was served upon the respondent but he did not appear and

was proceeded ex parte on 04.04.2014. The respondent-decree holder had been intentionally adopting the delaying tactics in getting the ex parte judgment and decree implemented without facing the trial in application under Order 39 Rules 1 and 2 CPC.

I have heard the learned counsel for the petitioner-judgment debtors and appraised the paper book.

On a query being raised to Mr. Verma, it has been apprised that an application for setting aside the ex parte proceedings is being opposed by the petitioner-judgment debtors. On instructions from his clients, he submitted that they will not oppose the application for setting aside the ex parte proceedings provided that the Court below shall consider the prayer for interim stay moved separately but till then, operation of the impugned order should be stayed, otherwise the whole exercise would be futile.

In view of the statement suffered by Mr. Jaideep Verma, Advocate on instructions from his clients at bar, I deem it appropriate to dispose of the present revision petition with a direction to the trial Court to consider the request of the petitioner-judgment debtors for allowing the application dated 20.03.2015 seeking setting aside the ex parte proceedings dated 04.04.2014 and hear the arguments in the interim application during the pendency of the application, in accordance with law. The interim application shall be decided within a period of two weeks from the date which is already fixed before the trial Court.

Till then, operation of the impugned order dated 04.01.2018 shall be kept in abeyance.

With the aforementioned observations, revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

February 23, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No