

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

C.R. No.2399 of 2018

Date of Decision.28.11.2018

Kulveer Singh

.....Petitioner

Vs

Kashmir Singh

...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ashok Kumar Khunger, Advocate
for the petitioner.

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AMIT RAWAL J. (ORAL)

The present revision petition is directed against the impugned order dated 28.03.2018 whereby the application of stay of the execution proceedings during the pendency of an application under Order 9 Rule 13 CPC for setting aside the ex parte judgment and decree dated 13.09.2016 has been dismissed.

Mr. Khunger, learned counsel appearing for the petitioner submitted that the respondent-plaintiff filed the suit for specific performance of agreement to sell dated 27.02.2015, which was decreed ex parte on 13.09.2016. Though on the basis of some legal advice, the petitioner had filed an objection petition, which was dismissed but the remedy was to assail the same by moving application Order 9 Rule 13 CPC. On receipt of the application along with application for interim stay, the trial Court issued notice but no order of stay was passed, thus, the petitioner was compelled to approach this Court vide Civil Revision No.1508 of 2018. This Court vide order dated 07.03.2018 directed the trial Court to decide the

application for stay on 28.03.2018 and till then, local commissioner appointed for execution of the sale deed was restrained to proceed further. However, on 28.03.2018, the application has been dismissed simply on the ground that objection petition had been dismissed.

In pursuance to the notice of motion order dated 16.04.2018, this Court on 29.05.2018, after noticing the office report, passed the following order:-

“Office report dated 25.05.2018 indicates that as the respondent evaded service, he was served through affixation. None has caused appearance on his behalf.

In the interest of justice, adjourned to 03.08.2018.

Meanwhile, the Executing Court shall defer the proceedings beyond the date fixed in this case.

I have heard learned counsel for the petitioner and appraised the paper book. The application under Order 9 Rule 13 CPC is pending adjudication and in view of the interim order, proceedings for execution have not made headway. In my view, the reasons assigned by the trial Court in returning the application for stay simply on the ground that objection petition has been dismissed is fallacious, thus, the same is hereby set aside. Instead it ought to have pondered upon the exigency of the matter and fixed time bound adjudication of the application.

While making the order dated 29.05.2018 absolute, the revision petition is disposed of with the direction to the Executing Court to expedite hearing of the application under Order 9 Rule 13 CPC by affording 3-3 effective opportunity in case of contest and

framing of issues and if otherwise decide the same as early as possible and preferably within a period of six months.

The revision petition is disposed of in the above terms.

(AMIT RAWAL)
JUDGE

November 28, 2018

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No