

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.269 of 2018

Date of Decision: 23.01.2018

Rachhpal Singh

... Petitioner

Versus

Smt. Rajinder Kaur

... Respondent

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Mandhir Singh Virk, Advocate,
for the petitioner.

RAMENDRA JAIN, J.(Oral)

Through the instant revision petition filed under Article 227 of the Constitution of India, prayer has been made for setting aside order dated 9.11.2017 (Annexure P-1) of the trial Court dismissing the application for stay of the execution proceedings till the disposal of application of the petitioner under Order 9 Rule 13 read with Section 151 CPC.

Learned counsel for the petitioner contends that on dismissal of the objections filed by the petitioner-defendant to the execution of the respondent-plaintiff, the petitioner approached this Court by way of Civil Revision No.1990 of 2017, which was withdrawn on 20.04.2017 with liberty to approach the trial Court, before whom his application under Order 9 Rule 13 CPC was pending for stay of execution proceedings.

While dismissing the aforesaid revision of the petitioner, the trial Court was directed to adjourn the execution petition till the decision of his application aforesaid.

Despite that, on 9.11.2017, the trial court vide impugned order has illegally and wrongly dismissed the stay application.

Heard.

Having given thoughtful consideration to the submissions made by learned counsel for the petitioner, this Court is in agreement with him for the reason that a Coordinate Bench of this Court while permitting the petitioner to withdraw CR No.1990 of 2017 has given liberty to him to file his stay application before the trial Court, where his application under Order 9 Rule 13 CPC was pending, simultaneously, directing the trial Court to adjourn the execution petition till decision of the aforesaid application of the petitioner.

Therefore, it is evident from the record that the trial Court has wrongly and illegally dismissed the application of the petitioner dated 21.04.2017 praying for stay of the execution proceedings.

Consequently, the impugned order is set aside. The trial Court is directed to dispose of the application under Order 9 Rule 13 CPC of the petitioner in accordance with law at the earliest in compliance of this Court order dated 20.04.2017 before proceeding further with the execution petition of the respondent-plaintiff.

This petition is disposed of without issuing notice to the respondent with a view to impart justice to the parties and to save the huge expenses which may be incurred by the respondent and also to avoid unnecessary delay in the adjudication of the matter. Still, if dissatisfied, the respondent may move this Court for recalling this order within six weeks from today.

23.01.2018
monika

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No