

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

CR No.3015 of 2018
Date of decision: 28.05.2018

Tula Ram alias Tulla

... Petitioner

Versus

Sukha Ram (deceased) through LRs and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Munfaid Khan, Advocate for the petitioner.
Mr. Ashok Kaushik, Advocate for LRs of respondents No.1 &
2.

ARUN PALLI, J. (Oral)

The petitioner-defendant is aggrieved by an order dated 20.04.2018, vide which the Appellate Court dismissed his application seeking stay of execution of the judgment and decree, dated 28.03.2018, rendered by the trial Court.

Before I proceed further, it indeed would be apposite to refer to the impugned order, which reads thus:

“This appeal has been presented today. Heard. There are some arguable points in it. Hence admitted for hearing. It be checked and registered. An application for staying the operation of impugned judgment and decree dated 28.03.2018 has also been filed alongwith the appeal. No ground for stay of impugned judgment and decree has been made out. Hence this relief is declined.”

All what has been urged by learned counsel for the petitioner is that the order declining stay application moved by the petitioner is perverse, as neither the case of the petitioner was analyzed nor any reason is assigned by the Appellate Court in support of the impugned order.

As to this, learned counsel for the respondents only pleads silence and expresses his inability to contradict the argument advanced by the learned counsel for the petitioner.

Ex facie, the appellate Court having found arguable issues, admitted the appeal for hearing. But the stay application moved by the petitioner was rejected without analyzing the matter in issue and assigning any reason. Thus, this Court is constrained to set aside the impugned order.

The revision petition is accordingly allowed, and the impugned order dated 20.04.2018 is set aside. The District Judge is directed to re-decide the stay application moved by the petitioner in accordance with law, and after hearing both the parties. Needless to assert that this order shall not constitute any expression of opinion on merits of the case of either party.

28.05.2018
Rajan

(Arun Palli)
Judge

Whether speaking / reasoned:
Whether Reportable:

YES
NO