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

**Civil Revision No.3125 of 2018
Date of Decision: 20.11.2018**

M/S DHINGRA BROTHERS

.....Petitioner

Vs

M/S JAYANTI CONSTRUCTIONS CHEMICALS

....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Aditya Grover, Advocate
for the petitioner.

Mr. D.K. Singal, Advocate
for the respondent.

RAJ MOHAN SINGH, J. (Oral)

Petitioner has assailed the order dated 24.04.2018 passed by the Civil Judge (Jr. Divn.) Panchkula, vide which prayer for staying operation of *ex parte* judgment and decree dated 09.12.2014 was declined.

Evidently, proceedings under Order 9 Rule 13 CPC for staying *ex parte* judgment and decree dated 09.12.2014 are pending in the Court of Addl. Civil Judge (Sr. Divn.) Panchkula. At the same time execution proceedings are pending before the same Court.

At the time of issuance of notice of motion, execution proceedings of *ex parte* judgment and decree were stayed.

Learned counsel for the petitioner submitted that in terms of Order 21 Rule 26 CPC, the Court is empowered to stay execution of *ex parte* judgment and decree for a reasonable time so as to enable the petitioner/judgment-debtor to seek setting aside of *ex parte* judgment and decree before the regular Court.

Learned counsel submitted the aforesaid proposition on the strength of **Narinder Kumar vs. M/s M.K. Electronics, 2010(5) R.C.R. (Civil) 697.**

On the other hand, learned counsel for the respondent opposed the the aforesaid arguments on the premise that executing Court cannot go beyond the decree passed.

I have considered the submissions made by learned counsel for the parties.

Since the *ex parte* judgment and decree is under challenge in the proceedings under Order 9 Rule 13 CPC, it would be appropriate to stay the execution of the *ex parte* judgment and decree for a reasonable time and the regular Court can be asked to dispose of the proceedings under Order 9 Rule 13 CPC at the earliest which are pending at the stage of evidence.

Looking into the facts and circumstances of the case, I deem it appropriate to stay the execution of *ex parte* judgment and decree and direct the Addl. Civil Judge (Sr. Divn.) Panchkula to dispose of the pending application under Order 9 Rule 13 CPC at the earliest by making every endeavour to record evidence of the parties in accordance with law giving short adjournments preferably within a period of nine months.

In view of aforesaid, this revision petitions is disposed of.

November 20, 2018

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No