

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 111

CR-3150-2018 (O&M)

Date of decision : 13.07.2018

Krishan Baldev @ Kishan Nath
and another

..... Petitioners

VERSUS

Gugga Marri Parbandhak
Society, Kotakpur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. G. S. Sidhu, Advocate, for the petitioners.

Mr. K. B. Raheja, Advocate, for respondent No. (i).

DEEPAK SIBAL, J. (ORAL)

Through the present petition, the petitioners seek the issuance of a direction to the Additional District Judge, Faridkot, to pass an appropriate order on the application filed by them for stay of execution proceedings till the final decision of their appeal filed by them against an ex-parte judgment and decree passed against them.

After hearing learned counsel for the parties and perusing the record the facts in brief which have been culled out are that the respondents filed a suit seeking therein mandatory injunction against the petitioners for vacating the suit property as detailed in the head note of the plaint. Permanent injunction for restraining the petitioners from interfering in the management and possession of the suit property was also prayed for.

On being put to notice, the petitioners initially appeared before the Trial Court. However, on 28.07.2008 when learned counsel for the

petitioners pleaded that he had no instructions in the matter, they were proceeded against ex-parte, leading to the passing of an ex-parte judgment and decree dated 09.09.2008 by the Trial Court. Thereafter the respondents filed an application before the Executing Court for getting the aforesaid decree executed. However, while such application was pending, the petitioners filed an application under Order 9 Rule 13 CPC for setting aside the ex-parte judgment and decree dated 09.09.2008. Through order dated 03.09.2016 the application filed by the petitioners under Order 9 Rule 13 CPC was dismissed by the Trial Court. The petitioners challenged the ex-parte judgment and decree as also the order passed by the Trial Court dismissing their application under Order 9 Rule 13 CPC by way of an appeal before the District Judge, Faridkot. For the reason that during the pendency of their appeal the Executing Court was proceeding with the matter, the present petition has been filed in this Court, seeking a direction to be issued to the Appellate Court to pass an appropriate order on the application filed by the petitioners alongwith their appeal seeking stay of the operation of the execution proceedings.

Notice in the petition was issued and in the meanwhile, execution proceedings were ordered to be stayed.

Learned counsel for the parties are *ad idem* that during the pendency of the present petition, through order dated 18.05.2018, the Appellate Court has dismissed the aforesaid appeal filed by the petitioners. That being so, the present petition filed by the petitioners seeking a direction to the Appellate Court to pass an appropriate order on the stay application filed by them alongwith their appeal has been rendered

infructuous.

Dismissed as infructuous.

13.07.2018

shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No