

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

CR No.3792 of 2018
Date of Decision: 24.07.2018.

Vishnu Kumar

... Petitioner

Versus

Kaushalaya Devi

.... Respondent

CORAM : HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr. R.S. Mamli, Advocate
for the petitioner.

Mr. Krishan Singh, Advocate
for the respondent.

B.S.WALIA, J.

1. Prayer in this revision petition is for staying judgment and decree dated 02.09.2015 (Annexure P-1) passed by the learned Civil Judge (Junior Division), Yamuna Nagar at Jagadhari, in Civil Suit No.332 of 2014 as also for directing the learned Addl. District Judge, Yamuna Nagar at Jagadhari (hereinafter referred to as 'learned lower Appellate Court) to decide the stay application filed along with the appeal challenging the impugned judgment and decree dated 02.09.2015.

2. Learned counsel contends that appeal was filed by the petitioner-defendant against judgment and decree dated 02.09.2015 before the learned lower Appellate Court along with an application for condonation of delay as well as for staying the operation of the impugned judgment and decree. Notice was issued on the application for condonation

of delay for 04.12.2017, however, summons issued to the respondent-plaintiff for said date were received back unserved with the report that she was not found at the given address and her husband Balbir Singh had refused to accept the process. In the circumstances, summons were pasted on the residential house of the respondent-plaintiff. However, the learned lower Appellate Court by taking note of the refusal of the summons not by the respondent but by her husband ordered issuance of fresh notice on the application seeking condonation of delay for 08.01.2018. But the respondent-plaintiff could not be found when attempts were made to effect service on her for the said date nor she could be found even on the subsequent dates for which summons were issued. Learned counsel contends that on the one hand the respondent-plaintiff is avoiding service of summons while on the other hand, she is actively pursuing the execution proceedings.

3. Mr. Krishan Singh, Advocate, has put in appearance on behalf of the respondent and filed his power of attorney. The same is taken on record. Learned counsel states that in case the respondent-plaintiff has already not put in appearance before the learned lower Appellate Court, appearance would be caused on behalf of the respondent-plaintiff before the learned lower Appellate Court by the next date and the matter would be argued after filing appropriate reply to the application for condonation of delay as well as the application for stay and further that till the decision of the said applications, the execution proceedings would not be pursued. The same satisfies learned counsel for the petitioner.

4. In the circumstances, the matter is disposed of by directing the respondent-plaintiff to file reply to the applications within two weeks from the date of receipt of citified copy of this order, whereupon the learned lower Appellate Court to consider and decide the applications filed by the petitioner-defendant as early as possible preferably by 31.08.2018. In the circumstances, learned Executing Court shall defer the execution proceedings listed before it to a date beyond 31.08.2018.

5. Revision petition stands disposed of in aforementioned terms.

(B.S.WALIA)
JUDGE

24.07.2018
rajesh.k.khurana

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