

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

CR No.5376 of 2018(O&M)
Date of Decision: 14.11.2018

Bant Singh (deceased) through LR Gurmail Singh ... Petitioner

Vs

Surinder Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vikas Singh, Advocate
for the petitioner.

Mr. S.S. Ranghi, Advocate and
Mr. H.S. Sakrali, Advocate
for the respondents.

RAJ MOHAN SINGH, J. (ORAL)

[1]. Petitioner has challenged the order dated 06.08.2018 passed by Additional Civil Judge (Senior Division), Nabha, whereby the executing Court directed the deposit of the decretal amount instead of security under Order 41 Rule 6(2) CPC.

[2]. Executing Court held that the application was filed at the fag end of the execution and termed the same to be *mala fide* exercise. Ultimately, the application was disposed of with a direction to the petitioner to deposit the decretal amount of Rs.12 lacs along with interest as per decree dated 29.11.2016 till date by way of depositing the same in the Government Treasury and submitting the challan on or

before 24.08.2018. The said deposit was termed to be a security which the Court has demanded under Order 41 Rule 6 CPC as a condition precedent to stay the sale proceedings.

[3]. At the time of issuance of notice of motion on 20.08.2018, following order was passed :-

“Learned counse for the petitioner contends that notice of motion was issued in RSA No.4415 of 2018 on 26.07.2018 and thereafter application under Order 41 Rule 6 CPC was filed before the executing Court on 06.08.2018 for providing security to the decretal amount.

Notice of motion for 14.11.2018.

Till the next date of hearing, sale warrants may not be executed.”

[4]. Learned counsel for the petitioner submitted that RSA No.4415 of 2018 is pending for 31.01.2019. Notice of motion has already been issued in the aforesaid RSA.

[5]. During course of arguments, learned counsel for the petitioner has shown willingness of the petitioner to furnish tangible security for the decretal amount to the satisfaction of the executing Court till decision of pending RSA No.4415 of 2018. The aforesaid arrangement is acceptable to respondent No.1.

[6]. For the reasons recorded hereinabove, this revision petition is disposed of. Impugned order dated 06.08.2018 passed by Additional Civil Judge (Senior Division), Nabha is accordingly modified. Petitioner would furnish tangible security for the decretal amount to

the satisfaction of the executing Court within one month from today during pendency of RSA No.4415 of 2018.

14.11.2018
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No