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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 6225 of 2014 (O/M)
Date of decision : 16.5.2018

Darshpreet Kaur

..... Petitioner

Versus

Zora Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sarju Puri, Advocate,
for petitioner.

Mr. Aayush Gupta, Advocate,
for respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

Impugned in present revision is order dated 14.8.2014 (Annexure-P-8), passed by learned Civil Judge (Junior Division), Ludhiana, whereby while executing ex parte judgment and decree, auction of property of JD was ordered.

I have heard the learned counsels for parties and have also carefully gone through file.

The only ground on which impugned order is challenged is that according to JD, she has filed objections before the Executing Court, which were not decided before passing said order.

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The learned counsel for petitioner has pointed out to objections (Annexure-P-5). The perusal of Annexure-P-5 shows that it is infact application for staying execution proceedings till the application for setting aside ex parte judgment and decree dated 30.10.2009 is decided. It goes to show that these are not objections, but mere a prayer to stay the execution proceedings. Therefore, no objection proceedings were pending before the Executing Court when auction was issued.

The learned counsel for petitioner has produced the authorities of this Court in *Davinder Pal Singh and another Versus Narinder Pal Singh and others*, 2016 (3) RCR (Civil) 194 and *Makhan Singh and others Versus Harbans Lal and another*, 2017 (1) RCR (Civil) 288 to press that when proceedings on an application filed under Order IX Rule 13 CPC, 1908, are pending, execution should be stayed.

I am of the view that when petitioner has filed application under Order IX Rule 13 CPC, 1908, for setting aside ex parte judgment and decree, she could very well file miscellaneous application for staying the operation of said ex parte judgment and decree. The said proceedings are proper proceedings where the application for stay of ex parte judgment and decree should be decided and not in execution proceedings. There is nothing on file to show that such relief was claimed in an application filed under Order IX Rule 13 CPC, 1908, or was ever decided. Therefore, in execution proceedings, Executing Court rightly denied to stay the execution.

The learned counsel for respondent has informed this Court that application filed under Order IX Rule 13 CPC, 1908, has been dismissed for want of prosecution and now no such application is pending.

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In view of foregoing discussion, I do not find any merits in present revision and same is dismissed. Since main case is dismissed, therefore, pending application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

16.5.2018
sjks

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No