

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

CR No.7120 of 2018

Date of Decision : 22.10.2018

Kanwaljit Kaur

.....Petitioner

Versus

Paramjit Singh and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Harsh Bunker, Advocate
for the petitioner.

SUDIP AHLUWALIA, J. (ORAL)

It is submitted *inter alia* that the respondents/judgment debtors were granted time for two months to deliver possession of the decretal land vide the impugned order dated 31st May, 2018 (Annexure P-9). Such order was passed in favour of the petitioner in allowing their application under Section 144 of the Civil Procedure Code (for short, 'the CPC'), which itself had been moved as a consequence of the finding of a Co-ordinate Bench of this Court in RSA Nos.1278 & 3299 of 2013 whereby the petitioners were held to be entitled to seek restitution of the property by invoking the provisions of Section 144 of the CPC. The respondents' objections against the application by way of framing of issues was dismissed by the Executing Court on 3rd May, 2017 (Annexure P-6). The Civil Revision No.4313 of 2017 against such dismissal was dismissed by this Court on 21st February, 2018 (Annexure P-7), and the SLP thereafter preferred by the

respondents was subsequently dismissed by the Hon'ble Supreme Court on 4th May, 2018 (Annexure P-8).

2. The respondents have since preferred appeal against the impugned order dated 31st May, 2018 and it transpires that while notice of the application for stay was ordered to be issued by the Ld. Appellate Court, no specific stay order in favour of the appellants/judgment debtors was passed.

3. The grievance of the petitioners in the given circumstances is that even in the absence of any stay, the Executing Court is not proceeding further in accordance with law even after the time granted by it to the appellants/judgment debtors before the Ld. Appellate Court has long lapsed.

4. In view of these circumstances, at this stage the matter is disposed off with a direction upon the Executing Court to proceed in accordance with law forthwith if there is actually no stay order passed against the pending execution proceedings.

5. The Ld. Appellate Court is directed to first decide the issue of maintainability of the appeal against the order passed under Section 144 of the CPC expeditiously, before proceeding to consider any prayer for stay.

October 22, 2018

Dpr

(SUDIP AHLUWALIA)

JUDGE

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