

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

CR-7839-2018 (O&M)

Date of Decision:13.12.2018

Prem Chand Singla through His LR

... Petitioner

Vs.

National Fertilizer Limited and others

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

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

Mr. Aruj Khan, Advocate
for respondent No.1.

AVNEESH JHINGAN J. (Oral)

Aggrieved of the order dated 4.10.2018 passed by Additional Civil Judge (Sr. Divn.), Samana dismissing the application for staying the execution proceedings till decision on the application under Order 37 Rule 4 read with Order 9 Rule 13 CPC, the present civil revision has been filed.

The facts in brief are that petitioner-defendant No.2 was a partner in the firm M/s JR Sales Corporation, Samana. Respondent No.1-plaintiff filed a civil suit for recovery of amount of ₹ 1,24,07,289/-. The suit was proceeded ex-parte against the petitioner-defendant No.2 and some other defendants. The suit was decreed vide judgment and decree dated 13.08.2003 for a sum of ₹ 1,24,07,289/- along with interest @ 6% per annum. As per the learned counsel for the petitioner, the petitioner-defendant No.2 filed an application dated 20.05.2016 for setting aside the ex-parte judgment and decree and the said application is pending as on date.

The applicant has concluded his evidence and the matter is now fixed

for 4.1.2019 for evidence of non-applicants.

The decree holder was pursuing the execution proceedings and petitioner-defendant No.2 moved an application for stay of the execution proceedings on the ground that an application for setting aside ex-parte judgment and decree is still pending. The stay application was dismissed. Hence, the present civil revision.

Learned counsel for the petitioner submits that the application for setting aside the ex parte judgment and decree is pending and on the other hand executing Court is proceeding with the execution proceedings. His grievance is that the plaintiff-respondent No.1 is delaying the proceedings on the application for setting aside the ex parte judgment and decree.

Learned counsel for respondent No.1 contends that there is no endeavour on the part of respondent No.1 to delay the proceedings.

Keeping in view the facts and circumstances of the case, the instant civil revision is disposed of with a direction to the learned trial Court at Chandigarh, before whom the application for setting aside the ex- parte judgment and decree is pending, to make an endeavour to decide the same within a period of three months from the date of receipt of the certified copy of this order.

Civil revision is disposed of accordingly.

13.12.2018
rajeev

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No