

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.7983 of 2018 (O&M)
Date of Order:27.11.2018

Bachan Singh (since deceased) through his LRs

..Petitioners

Versus

Mewa Singh (since deceased) through his LRs.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Fariad Singh Virk, Advocate,
for the petitioners.

ANIL KSHETARPAL, J(Oral)

Judgment Debtor is in revision petition against the orders dated
14.09.2018 and 01.10.2018.

There is an ex-parte decree against the judgment debtor for recovery of the amount. The judgment debtor had filed an application under Order 9 Rule 13 of the Code of Civil Procedure for setting aside an ex-parte decree, on 13.04.2018. The learned Executing Court considered it appropriate to stay the execution subject to the judgment debtor furnishing the security in the form of bank guarantee for Rs.50,000/- in favour of the decree holder as a condition precedent within a period of 20 days from the date of passing of the order. Operative part of the order is extracted as under:-

*“7. In the peculiar facts and circumstances of the case, I
am of the considered opinion that the present execution
must not be stayed and the rights of*

applicants/objectors/LRs of deceased JD also in pursuing the application under Order 9 Rule 13 of CPC must not fail or be jeopardized. So, the present execution is ordered to be adjourned for a period of three months and applicants/Objectors/LRs of deceased JD are directed to furnish the security in the shape of bank guarantee of Rs.50,000/- in favour of decree holder as condition precedent within the period of twenty days from the date of passing of the present order i.e. 13.04.2018. The applicants/Objectors/LRs of deceased JD are also directed to expedite the proceedings of application under Order 9 rule 13 of CPC so that the application under Order 9 Rule 13 CPC gets decided within the period of three months.”

The judgment debtor filed an application for extending the time as he could not arrange funds for furnishing security. The application was filed after a period of 41 days. Learned court has dismissed the application.

Learned counsel for the petitioners submits that he is ready to furnish bank guarantee as ordered on 13.04.2018.

Keeping in view the aforesaid facts, the time granted by the Executing Court on 13.04.2018 is extended to one week henceforth. If the bank guarantee is furnished within the aforesaid time, it shall be treated to have been furnished within time.

The learned Executing Court has correctly noticed that the application under Order 9 Rule 13 of the Code of Civil Procedure be got decided. Learned counsel has submitted that the application under Order 9

Rule 13 of the Code of Civil Procedure has already been decided against the judgment debtor. Against which the appeal is stated to be pending.

Let a copy be forwarded to the learned Appellate Court to take up the appeal and decide the same as expeditiously as possible.

Since, the order has been passed without issuing notice to the respondents, the decree holder shall be at liberty to move an application for re-call, if so advised.

In view thereof, the civil revision stands disposed of.

November 27, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No