

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No. 8479 of 2018

Date of Decision: 13.12.2018

Jagtar Singh

.....Petitioner

Versus

Hakam Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rajesh Bhatheja, Advocate
for the petitioner.

AVNEESH JHINGAN, J.(oral)

The present civil revision petition has been filed being aggrieved of the order dated 11.10.2018 passed by Additional Civil Judge (Senior Division), Nihal Singh Wala (hereinafter referred to as 'the Executing Court') staying the execution proceeding till the decision of the application filed under Order IX Rule 13 of the Code of Civil Procedure, 1908 (CPC) subject to deposit of 1/4th amount by the applicant,

The facts in brief are that the petitioner-plaintiff filed a suit for possession as owner by way of specific performance of sale deed dated 6.7.2016. The respondent-defendant was proceeded ex-parte vide order dated 13.1.2017. The suit was decreed on 6.1.2018. Execution application was filed on 12.3.2018. In the meantime, the respondent/defendant moved an application under Order IX Rule 13 CPC for setting aside the ex-parte judgment.

Learned Executing Court took note of the fact that the application for setting aside ex-parte decree is pending. The execution was stayed till decision on the application and the applicant was directed to deposit 1/4th

amount. Hence, the present civil revision petition.

Learned counsel for the petitioner states that there is no ground for stay, the Executing Court erred in staying the execution proceedings.

The contention raised by learned counsel for the petitioner lacks merit. The suit is for specific performance, an ex-parte decree had been passed. For setting aside the same, an application has been moved which is pending. There is nothing on record to show that the said application is being delayed intentionally by the applicant. An irreparable loss would be caused to the respondent in case the ex-parte decree is executed. The interest of the petitioner/plaintiff has already been protected by the Executing Court by ordering deposit of 1/4th amount by the applicant.

No interference is called for in the impugned order.

However, it is desirable that the learned Trial Court shall deal with the application for setting aside the ex-parte decree as expeditiously as possible with the co-operation of the parties.

The petition is disposed of accordingly.

(AVNEESH JHINGAN)
JUDGE

13.12.2018
reema

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No