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

CR No. 435 of 2019

Date of Decision: 29.04.2019

Jai Kishan

-Petitioner

Vs

Karan Singh (deceased) through LR

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ashish Kumar, Advocate, for
Mr. Vijay Pal, Advocate,
for the petitioner.

None for the respondent.

RAJ MOHAN SINGH, J. (ORAL)

1. As per office report, service is complete.
2. There is no representation on behalf of the respondent.
3. Petitioner has assailed the order dated 01.11.2018 passed by Additional District Judge, Hisar to the extent of not granting *ad interim* stay during pendency of the appeal.
4. Against *exparte* judgment and decree dated 25.08.2016 passed by the trial Court, the petitioner filed an application under Order 9 Rule 13 CPC. The application was dismissed by the trial Court vide order dated 20.10.2018. An appeal was preferred before the lower Appellate Court along

with an application for interim stay of further proceedings before the Executing Court. No interim order was passed by the lower Appellate Court nor the appeal has been decided so far.

5. Under Order 21 Rule 26 CPC, the Executing Court can stay the execution of decree for a specified period so as to enable the judgment debtor to have appropriate order in the pending appeal before the lower Appellate Court or in the pending application under Order 9 Rule 13 CPC. It is a case of appeal before the lower Appellate Court.

6. This Court vide order dated 21.01.2019 has also directed the Executing Court to adjourn the proceedings beyond the date fixed by this Court. The scope of Order 21 Rule 26 CPC would be to grant interim protection for a limited period/time so as to enable the judgment debtor to seek lawful order in the pending proceedings.

7. Since the appeal is pending along with an application for interim stay, therefore, at this stage, it would be just and appropriate to direct the lower Appellate Court to decide the appeal and the pending application for interim stay either on the next date of hearing or within one month thereafter, in accordance with law.

8. Nothing observed hereinabove shall be construed to be an opinion on the merits of the case.

9. Till such time, interim order dated 21.01.2019 shall remain in operation.

10. Disposed of.

29.04.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

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|----|---------------------------|---|--------|
| 1. | Whether speaking/reasoned | : | Yes/No |
| 2. | Whether reportable | : | Yes/No |