

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

CR no.509 of 2019

Date of Decision: 08.02.2019

Mahesh and another

...Petitioners

Vs.

Kasturi Lal Sehgal

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Sandeep Sharma, Advocate, for the petitioners.

Amol Rattan Singh, J (Oral)

By this petition, the petitioners (judgment debtors) have challenged the order of the Civil Judge (Jr. Divn.), Jalandhar (executing court), dated 07.01.2019, by which their objections filed in the execution petition, have been dismissed and a warrant of possession has been ordered to be issued.

Pursuant to the order dated 23.01.2019, Mr. Manmeet Singh Rana, Advocate, appears for the respondent and has filed a power of attorney in his favour, which is taken on record.

Learned counsel for the respondent has submitted that the petitioners having duly appeared before the trial court and even having filed their written statement in the suit and thereafter having chosen not to appear, they were naturally proceeded against *ex parte*, with the judgment and decree having been passed thereafter against them.

He therefore submits that pendency of an application filed under Order 9 Rule 13 CPC seeking the setting aside of the said judgment

and decree on that ground should not act as a bar or hindrance to the respondent decree-holder in getting the decree executed.

Whereas what learned counsel for the respondent has submitted may not be without reasoning, however, no comment can be made by this Court on that contention, because doing so would naturally influence the order to be passed by the trial court in the application filed under Order 9 Rule 13 CPC by the petitioners.

That application is stated to be coming up for hearing for consideration before that Court on February 27, 2019.

Whether or not the respondent has still filed a reply to that application is not known to the learned counsel appearing for him, but be that as it may, in the opinion of this Court till that application is decided (though expeditiously), it would prejudice the petitioners, possibly irreparably, if the order of the learned Rent Controller is executed at this stage.

Consequently, with the trial court directed to dispose of the said application very expeditiously and positively within a period of two months from today, this petition is allowed, with the impugned order set aside and the executing proceedings held in abeyance till the application under Order 9 Rule 13 of the CPC is decided, but no further.

08.02.2019
vcgarg

(Amol Rattan Singh)
Judge

Whether speaking/reasoned : Yes
Whether reportable : Yes