

In the High Court of Punjab and Haryana at Chandigarh

244

CR No.7981 of 2018

Date of decision: 4.12.2019

BACHAN SINGH

.....petitioner

Versus

KEHAR SINGH

.....respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Bhavyadeep Walia, Advocate,
for the petitioner.

Mr.Prashant Bansal, Advocate
for the respondent.

RAJ MOHAN SINGH, J.(oral)

This revision petition has been filed against the order dated 1.10.2018 passed by the Civil Judge (Jr.Divn.), Rajpura in execution No.673/2016.

Grievance of the petitioner is that in view of Order 21 Rule 26 CPC, the Executing Court could have protected the cause of the petitioner for a reasonable time by staying the proceedings in order to enable the petitioner to have an appropriate order in the pending proceedings under Order 9 Rule 13 CPC. In fact the application for stay of proceedings was moved in the main proceedings under Order 9 Rule 13 CPC, but the Executing Court, by misconstruing the said application and

by treating the same to have been filed in the execution, dismissed the same vide the impugned order.

Learned counsel for the petitioner submitted that no application for stay of operation of the ex parte judgment decree dated 30.3.2016 was filed in the Executing Court, rather the application filed in the main proceedings under Order 9 Rule 13 CPC has been wrongly considered to have been filed in the execution and the impugned order is the result of misconception to that extent. On the strength of **Narinder Kumar vs. M/s M.K.Electronics, 2010 (5) RCR (Civil) 697**, learned counsel for the petitioner submitted that the Executing Court could have protected the petitioner for a reasonable time in order to enable the judgment debtor to have an appropriate order from the concerned court.

Per contra, learned counsel for the respondent states that the sale deed has already been executed in pursuance of the decree dated 30.3.2016 and only possession is to be delivered.

In view of facts on record, I deem it appropriate to direct the trial Court to re-visit the order again in the light of the nomenclature of the application filed before it and pass an appropriate order in accordance with law without being influenced by any statement of fact made herein above. It would be appreciated if the fresh order is passed within two months

from the date of receipt of certified copy of this order. Till the decision of that application, status quo regarding possession shall be maintained by the parties.

Petition stands disposed of accordingly.

December 04, 2019
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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/Speaking **Yes/No**

Whether reportable ***Yes/No***