

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

121

CR No.2225 of 2019

Date of Decision : 03.05.2019

GURBINDER SINGH.**....PETITIONER****V/S****LAKHA SINGH.****....RESPONDENT****CORAM : HON'BLE MR. JUSTICE B.S. WALIA**

Present: Mr. Amit Arora, Advocate for the petitioner.

Mr. K.B.S. Mann, Advocate for respondent Nos.1 to 4.

B.S. WALIA, J. (ORAL)

[1] Prayer in the revision petition is for the setting aside of order Annexure P-5 dated 30.01.2019 whereby the objections filed by the petitioner against judgment and decree dated 02.07.2013 were dismissed.

[2] Learned counsel contends that the petitioner had filed an application for setting aside *ex parte* judgment and decree while praying in the objections that the execution proceedings be deferred to await the outcome of the application under Order 9 Rule 13 CPC / application for stay moved in the application under Order 9 Rule 13 CPC. However, the learned trial Court dismissed the objections without waiting for the outcome of the aforementioned applications.

[3] Learned counsel contends that in the circumstances the learned Executing Court ought to have deferred the execution proceedings till such time that decision was taken on the application for stay and that in the

circumstances, the impugned order be set aside and execution proceedings be deferred to await the outcome of the application for stay.

[4] Learned counsel appearing on behalf of respondent Nos.1 to 4 states that he has no objection to the prayer of the petitioner, subject to the petitioner depositing the decretal amount with the Executing Court and release of said amount being made subject to the outcome of the application under Order 9 Rule 13 CPC.

[5] I have heard learned counsel for the parties. In the light of the position as noted above, the revision petition is allowed. Impugned order is set aside. Execution proceedings shall be deferred to await the outcome of the application under Order 9 Rule 13 CPC, subject to the petitioner depositing the decretal amount with the executing court. However, release of the decretal amount would be subject to the outcome of the application under Order 9 Rule 13 CPC.

[6] Learned trial Court is directed to decide the application under Order 9 Rule 13 CPC as expeditiously as possible, preferably within a period of 3 months from the date of receipt of certified copy of this order.

(B.S. WALIA)
JUDGE

May 03, 2019
'Rajneesh'

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No