

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

113

CR No.2253 of 2019

Date of Decision: April 03, 2019

Harjinder Singh

.....Petitioner

versus

Prem Kumar and others.

.....Respondents

CORAM: HON'BLE MR.JUSTICE DEEPAK SIBAL

Present: Mr. Anureet S. Sidhu, Advocate for the petitioner.

DEEPAK SIBAL, J. (Oral)

Notice of motion to contesting respondents No.1 to 4.

Mr. Atul Jain, Advocate puts in appearance on behalf of the contesting respondents by filing *Vakalatnama* in Court today, which is taken on record.

Learned counsel for the parties have been heard.

The present petition is directed against the order dated 05.03.2019 passed by the Additional Civil Judge (Senior Division) (for short-the Executing Court), Patiala, dismissing the application filed by the petitioner seeking stay of the execution proceedings during the pendency of the appeal filed by him against the judgment and decree dated 30.03.2016.

The facts in brief leading to the filing of the present petition are that respondents No.1 to 4 filed a suit seeking therein specific performance of agreement to sell dated 27.03.2008 with regard to the property detailed and described in the plaint (for short-the suit property). It was further prayed that the

petitioner, who was defendant No.1 in the suit, be restrained from sale, transfer, gift, mortgage etc. of the suit property. It was further prayed that respondents No.1 to 4 be not forcibly dispossessed from the suit property. Gift deed dated 30.10.2009 executed by the petitioner in favour of his wife Parvinder Kaur was also challenged. On being put to notice, the petitioner appeared before the Trial Court and refuted the case set up by respondents No. 1 to 4. After sifting the evidence that had come on record, the Trial Court, through judgment and decree dated 30.03.2016, directed the petitioner to execute the sale deed. The petitioner filed an appeal against the aforesaid judgment and decree dated 30.03.2016, which is pending before the Additional District Judge, Patti (for short-the Appellate Court). During the pendency of the appeal, respondents No.1 to 4 filed an application for execution of the aforesaid decree dated 30.03.2016 in which the petitioner filed an application seeking stay of the proceedings on the ground that his appeal was pending. Such application has been dismissed by the Executing Court for the reason that there was no interim order passed by the Appellate Court in favour of the petitioner. Such order is under challenge in the present proceedings.

Learned counsel for the petitioner submits that his appeal is now listed for final disposal on 07.05.2019. He prays for issuance of directions to the appellate Court to decide his appeal on the adjourned date and till such time seeks stay of the execution proceedings.

Learned counsel for respondents No.1 to 4 submits that he has no objection if the direction to dispose of the petitioner's appeal on 07.05.2019 is issued. He further states that he has express instructions from his clients that till 07.05.2019 his clients would not pursue their execution application filed by them before the Executing Court

In view of the above, as also for the reason that the petitioner may effectively avail of his statutory remedy, the Appellate Court is directed to dispose of the petitioner's appeal on 07.05.2019 or within a fortnight thereafter, in accordance with law.

Learned counsel for the parties undertake to cooperate in the disposal of the appeal within the above time frame.

Till the disposal of the petitioner's appeal, the execution of aforesaid decree dated 30.03.2016 passed by the Trial Court is stayed.

The petition is disposed of in the above terms.

April 03, 2019
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[DEEPAK SIBAL]
JUDGE

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