

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

CR-4259-2019 (O&M)
Date of decision: 12.07.2019

Rajinder Singh

...Petitioner

Versus

Rajiv Sabharwal

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. B.S. Bhalla, Advocate for the petitioner.

H.S. MADAAN, J. (Oral)

This revision petition is directed against order dated 24.05.2019, passed by Civil Judge (Jr. Divn.) Moga, vide which an application under Order 22 Rule 29 read with Section 151 CPC filed by the revisionist was dismissed.

Briefly stated facts of the case are that Rajiv Sabharwal had filed a civil suit against defendant Rajinder Singh, craving for grant of possession as owner by way of specific performance of agreement to sell dated 07.10.2014 along with consequential relief of permanent injunction restraining the defendant from alienating the land in question in any form. In the alternative, he had sought recovery of Rs.17 lacs i.e. Rs.10 lacs on account of refund of earnest money and Rs.7 lacs on account of damages. That civil suit was decreed by Civil Judge (Jr. Divn.) Moga, vide judgment dated 21.04.2018 and a decree of possession by way of specific performance of agreement to sell dated 07.10.2014 in respect of the house

measuring 5 marlas i.e. $\frac{1}{2}$ share of land measuring 10 marlas, situated in Moga Mehla Singh-I, District Moga along with a decree for permanent injunction was passed in favour of the plaintiff against the defendant. As it comes out, the defendant has filed an appeal against the judgment and decree passed by the trial Court. The plaintiff has filed an execution application, wherein the defendant appeared and moved an application under Order 22 Rule 29 read with Section 151 CPC, contending that the appeal against the judgment and decree passed by the trial Court is pending before Addl. District Judge, Moga. The defendant had prayed that proceedings of execution be stayed. The application was contested by the plaintiff/DH, praying for dismissal of the application. Issues on merits were framed by the Executing Court. The parties were afforded adequate opportunities to lead evidence. Vide impugned order dated 24.05.2019, the objection petition was dismissed. This order left respondent/JD aggrieved and he has filed the present revision petition.

I have heard learned counsel for the revisionist besides going through the record and I find that there is no merit in the revision petition. The JD/Objector had submitted that since the appeal filed against the judgment and decree passed by the trial Court is pending before ADJ, Moga, therefore, the proceedings in the execution application be stayed. However, mere pendency of appeal does not mean that the execution proceedings are to be brought to a standstill. The applicant could have moved the Appellate Court of Addl. District Judge, Moga, seeking stay of execution of impugned judgment and decree and obtained a stay

therefrom. In absence of 1st Appellate Court granting any stay or refusing to do so, the execution proceedings can certainly be not stayed. The Executing Court was fully justified in rejecting such contentions of the revisionist and dismissing the objection petition. There is no illegality or infirmity in the order, much less apparent on the face of it, which might have called for interference by this Court, while exercising revisional jurisdiction. Thus, finding no merit in the revision petition, the same stands dismissed.

12.07.2019

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(H.S. MADAAN)
JUDGE

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