

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

**CM No.23378-CII of 2019 in/and
CR No.4753 of 2019
Date of Decision : 28.11.2019**

Gautam Sharma

.....Petitioner

Versus

Kamla Devi and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Randeep S. Rana, Advocate
for the petitioner.

SUDIP AHLUWALIA, J. (ORAL)

CM No.23378-CII of 2019

For the reasons mentioned in the application, the prayer for preponement is allowed.

Let the main case is taken up for consideration on Board today, itself.

CM stands disposed off.

CR No.4753 of 2019

This Revision Petition is directed against the two orders (Annexures P-7 and P-8) passed by Ld. Additional Civil Judge (Senior Division), Khanna, on 1st December, 2018, vide which, the Petitioner's Petition of Objections as Judgment Debtor and also a separate Application to recall the Arrest Warrants ordered to be issued against him, in the Execution Case pending before the Ld. Additional Civil

Judge (Senior Division), Khanna, were dismissed.

2. Background of the matter is that the original Civil Suit No.156 dated 4th July, 2014, filed against the Petitioner by the Respondents/Judgment Debtors, was ultimately decreed in their favour *ex parte* on 22nd December, 2015 in a situation in which the Petitioner had initially appeared and contested the Suit but had absented from the proceedings thereafter. The Ld. Trial Court nevertheless pronounced its findings on all the issues framed in the Suit, at an earlier stage.

3. When the Decree was pursued in Execution, the Petitioner filed his Petition of Objections on 18th February, 2017, in which it was basically contended by him that he had not constructed/laid any lintel upon the wall/property of the Decree Holders/Applicants and had left a space in between the Wall constructed in the property of the Decree Holders, nor had he constructed *badra*, as alleged. He, nevertheless, did not challenge legality of the Judgment and Decree passed against him but only attached photocopy of some compromise of the same date alleged to have been arrived at without disclosing as to who were the parties to that compromise, nor any copy of the same is now attached to Annexure P-3.

4. The Petition of Objections as well as Application for recalling the order issuing Arrest Warrants against him, were dismissed on hearing both sides.

5. It is noteworthy now that the Petitioner approached this Court more than 07 months, after the impugned orders were passed, in a hurried attempt to get the proceedings in Execution stayed against him.

6. On being questioned by the Court about such delay, Ld. Counsel for the Petitioner has revealed that in fact an Appeal against the original Judgment and Decree of the Ld. Trial Court has since been filed on 14th February, 2019 before the Ld. Appellate Court, which is pending in the Court of the Ld. Additional District Judge, Ludhiana. This Court was further curious to know, *“whether such Appeal, filed almost four years after the original Judgment and Decree being passed, was accompanied by any Application for condonation of delay or not”*? To answer this, Ld. Counsel for the Petitioner first sought a short pass-over and later appeared with instructions to the effect that Application for condonation of delay was indeed filed along with Appeal in the Year 2019. Copies of the *Zimni* Orders passed by the Ld. Appellate Court have also been tendered at this stage on behalf of the Petitioner, from which, it is seen that notice of the Appeal along with the Application for condonation of delay, was ordered to be issued by the Ld. Additional District Judge, for 9th May, 2019, after the matter first came up for consideration on 15th February this year. The Petitioner, however, failed to file the Requisites, i.e. RC&AD, for

issuance of such notices for the stipulated date and thereafter even on subsequent dates i.e. 9th May, 2019 and 20th September, 2019. The Ld. Appellate Court then granted Petitioner one Last Opportunity to do the needful for issuing such notices/summons which were also to be taken by him *dasti* for 11th December, 2019. The notices by Registered Post were then issued more than one month later on 30th October, 2019.

7. From the above, it is, therefore, clear that the intention of the Petitioner all along has been to drag/prolong the proceedings pending in the Ld. Executing Court. In any case, the fact, that Appeal against the original Judgment and Decree has been filed, which is yet pending, itself has the effect of negating the genuineness of his objections against the Execution in a situation when no stay of the Decree is in operation.

8. In these circumstances, this Court is not inclined to grant any indulgence to the Petitioner in an attempt to stall the Execution by way of such inappropriate tactics.

9. No merits.

10. Dismissed.

November 28, 2019
Dpr

(SUDIP AHLUWALIA)
JUDGE

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