

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 114 (2)

CR-6278-2019 (O&M)

Date of decision : 01.10.2019

Nand Singh @ Lal Singh

..... Petitioner

VERSUS

Simarjit Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. A. S. Mann, Advocate, for the petitioner.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 22.08.2019, passed by the Additional Civil Judge (Senior Division), Budhlada (for short, the Executing Court), dismissing an application filed by the petitioner seeking therein stay of the execution proceedings during the pendency of his appeal filed by him against the judgment and decree dated 15.12.2018, passed by the Additional Civil Judge (Senior Division), Budhlada (for short, the Trial Court), the execution of which was being sought by the respondent.

The noticeable facts, in brief, are that the respondent filed a suit seeking therein possession of land measuring 8 kanals detailed and described in the head note of his plaint. The petitioner was the defendant in that suit. The respondent's suit was decreed by the Trial Court on 15.12.2018 against which, on 13.03.2019, the petitioner filed his appeal. Since there was delay of 60 days in the filing of his appeal an application was filed by him for condonation of delay. In such application notice has been issued by the Appellate Court. In the meanwhile, the respondent is seeking execution of the aforesaid judgment and decree of the Trial Court dated 15.12.2018.

Learned counsel for the petitioner has been heard.

Against the decree being sought to be executed against the petitioner a

statutory remedy of appeal has been availed of by him. In the filing of such appeal

there is a delay of 60 days, for the condonation of which, an application under Section 5 of the Limitation Act, 1963 has been filed. The First Appellate Court has issued notice in such application and the next date in such proceedings is stated to be 18.10.2019.

In the peculiar facts of the present case, the petition is disposed of with a direction to the First Appellate Court to take a final decision on the petitioner's application for condonation of delay on 18.10.2019 or within fifteen days thereafter. In case the delay is not condoned, the petitioner's appeal shall automatically be dismissed and there would be no impediment whatsoever for the respondent to execute the aforesaid decree of the Trial Court dated 15.12.2018. However, in case, the First Appellate Court condones such delay, it is further directed to take a decision on the petitioner's stay application within four weeks thereafter.

In the meanwhile, the dispossession of the petitioner shall remain stayed in the first instance till the First Appellate Court takes a decision on the petitioner's application for condonation of delay and in case the delay is condoned, then till the decision on the petitioner's stay application filed by him alongwith his appeal.

It is clarified that the grant of stay by this Court shall not influence the First Appellate Court in any manner and that the decision on the petitioner's application for condonation of delay as also the stay application shall be taken on its merits.

If the respondent is aggrieved by this order, he is at liberty to approach this Court through an appropriate application.

01.10.2019
shamsher

[DEEPAK SIBAL]
JUDGE

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