

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

**CR No.7161 of 2019(O&M)
Date of Decision: 14.11.2019**

Ravi GoyalPetitioner
Versus
Ajay Kumar (since deceased) through LR's and others
.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Imran Farooqi , Advocate
for the petitioner.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner seeks issuance of direction to the executing Court for expediting the disposal of execution application No.192/2017.

[2]. The suit for possession by way of specific performance filed by the plaintiff/petitioner was decreed by the trial Court vide judgment and decree dated 10.08.2017. The appeal preferred by the respondents before the Lower Appellate Court was dismissed vide judgment and decree dated 17.01.2019. Respondents remained unsuccessful even in RSA No.2101 of 2019, which was dismissed on 13.05.2019. The execution was filed prior to dismissal of aforesaid RSA by the High Court.

[3]. Perusal of the record would show that Additional Civil

Judge (Senior Division), Malerkotla appointed Naib Nazir as Local Commissioner for execution of sale deed with the process of the Court vide order dated 03.02.2018. Ahlmad was also directed to compare proposed sale deed to be the same as per terms of the decree. Report of the Local Commissioner was awaited for 17.03.2018. During the intervening period, the First Appellate Court had granted interim stay. The executing Court thereafter adjourned the case for awaiting the order from the Lower Appellate Court till 20.04.2019 when the factum of dismissal of appeal vide judgment and decree dated 17.01.2019 was disclosed to the executing Court. After 20.04.2019, the executing Court was supposed to proceed in terms of execution of decree for which Naib Nazir was appointed as Local Commissioner and needful in the context of execution of sale deed with the process of the Court was to be done. Due to availing leave by the Presiding Officer, for want of service of JD Nos.1 and 3 and unsoundness of mind of Vasu Garg son of late Ajay Kumar, the execution of the decree was delayed. Ultimately, vide order dated 15.07.2017, legal representatives of JD Nos.1 and 2 were allowed to be brought on record and thereafter, execution was further delayed on account of availing leave by the Presiding Officer.

[4]. Perusal of orders dated 09.08.2019 and 17.09.2019

passed by Additional Civil Judge (Senior Division), Malerkotla does not depict true status of execution which was supposed to be proceeded, with the process of the Court. Reference to the aforesaid orders are being made only to note some omission on the part of executing Court in not proceeding with the execution of the decree at the earliest in accordance with law.

[5]. Be that as it may, at this stage, I deem it appropriate to direct the executing Court to execute the decree of the trial Court within a period of three months from the date of receipt of certified copy of this Order. However, the executing Court shall be at liberty to seek extension in time in case of some unavoidable circumstances.

[6]. Disposed of.

14.11.2019

Prince

**(RAJ MOHAN SINGH)
JUDGE**

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No