

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

Sr. No.115

CR-10288-2018 (O&M)
Date of decision: 05.02.2019

M/s Khas Fashion and another

....Petitioners

versus

Gurinder Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Prateek Sodhi, Advocate for
Mr. Umesh Aggarwal, Advocate
for the petitioners.

Mr. Jasminder Singh Thind, Advocate
for the respondent.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 10.12.2018 passed by the Civil Judge (Senior Division), Amritsar (for short – the Executing Court) through which warrants for attachment of the petitioners' property have been issued in execution proceedings initiated by the respondent to execute ex parte decree dated 10.10.2013 through which he has been held entitled to recover from the petitioners a sum of ₹4,30,582/- alongwith future interest @ 18% per annum.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the respondent filed a suit to recover from the petitioners a sum of ₹4,30,582/- alongwith future interest.

Such suit filed by the respondent was accepted through an ex parte decree dated 10.10.2013. The petitioners filed an application under Order 9 Rule 13 CPC for setting aside the aforesaid ex parte judgment and decree dated 10.10.2013 which was dismissed by the Trial Court on 31.05.2018 against which they filed an appeal which is pending before the Appellate Court.

Learned counsel for the petitioners submits that till the time the petitioners' appeal or at least the application for stay filed by them alongwith their appeal to challenge therein the dismissal of their application under Order 9 Rule 13 CPC is adjudicated upon, the warrants of possession issued in the execution proceedings initiated by the respondent should be kept in abeyance as according to him if the aforesaid ex parte judgment and decree dated 10.10.2013 is executed, the statutory remedy availed of by the petitioners would be virtually rendered infructuous.

Learned counsel for the respondent submits that since there is no interim order in favour of the petitioners, the Executing Court is rightly proceeding with the execution proceedings initiated by the respondent.

After hearing learned counsel for the parties, in the peculiar facts of this case, this Court is of the opinion that the ends of justice would be served by issuance of a direction to the Appellate Court to decide the petitioners' appeal or at least the stay application filed by the petitioners alongwith their appeal within two months from the date of receipt of a certified copy of this order.

Till the petitioners' appeal or at least the stay application filed by the petitioners alongwith their appeal is not adjudicated upon, the

aforesaid ex parte judgment and decree dated 10.10.2013 shall not be executed.

The present petition is disposed of in the above terms.

(DEEPAK SIBAL)
JUDGE

February 05, 2019
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No