

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

-.-

**C.R No. 7748 of 2019
Date of decision: 16.12.2019**

Pritpal Singh

... Petitioner

Vs.

Surinderjit Singh & Anr.

...Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present:- Mr. Ashish Gupta, Advocate, for the petitioner.

Mr. Atul Jain, Advocate, for respondent No.1.

ALKA SARIN, J.

The present revision is directed against the order dated 02.09.2019 passed by Civil Judge, Jr. Division, Patiala (hereinafter referred to as, 'the Executing Court'), by which the objections filed by the petitioner-judgment-debtor have been dismissed.

A brief matrix of the facts, which are required to be noticed for adjudication of the present *lis*, are that the respondents filed a civil suit against the petitioner and his son Manpreet Singh (proforma respondent No.2-herein) and Municipal Council, Sanaur Tehsil and District Patiala for recovery of ₹6 lakhs (₹3 lakhs as principal amount and ₹3 lakhs as damages equal to the earnest money). The Civil Court vide ex-parte judgment and decree dated 08.01.2016, decreed the suit and held the plaintiff therein entitled to recover ₹5 lakhs. Thereafter, the plaintiff filed the present execution application wherein the judgment-debtors were issued notice. It is the case set up by the petitioner-judgment-debtor herein that he came to know of the ex-parte decree, when he received the notice in the execution petition.

Learned counsel for the petitioner states that thereupon the petitioner-judgment-debtor immediately filed an application under Order 9 Rule

13 of the Code of Civil Procedure, 1908 (for short, 'CPC') for setting aside the ex-parte judgement and decree dated 08.01.2016. It is further submitted that the Civil Judge, Junior Division, Patiala dismissed the application under Order 9 Rule 13 vide order dated 09.11.2017. Aggrieved by said the order, the petitioner has filed an appeal, which is now pending for arguments on 03.01.2020. It has been stated by the learned counsel for the petitioner that alongwith the appeal the petitioner has also filed an application for stay.

It has been submitted by learned counsel for the petitioner that till such time that the appeal filed by the petitioner or at least till the time the application for stay filed by him along with his appeal to challenge the dismissal of the application under Order 9 Rule 13 CPC is not adjudicated upon, warrants of possession be kept in abeyance, as according to him if the aforesaid ex-parte judgment and decree dated 08.01.2016 is executed the statutory remedy availed of by the petitioners would be virtually rendered infructuous.

Learned counsel appearing for respondent No.1 has submitted that since there is no interim order of stay in favour of the petitioner, therefore, the Executing Court was rightly proceeding with the execution petition.

I have heard the learned counsel for the parties. In view of the peculiar facts and circumstances of the present case, I am of the opinion that ends of justice would be served by issuance of a direction to the Appellate Court to decide the application for stay, if not the appeal on the next date of hearing, which is 03.01.2020.

With the above directions, the present civil revision stands disposed.

December 16, 2019
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(ALKA SARIN)
JUDGE