

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114

CR-2616-2020

Date of decision: 09.12.2020

Kaka Daler Singh (since deceased) through LRs

.....Petitioners

versus

Gurmail Singh

....Respondent

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. L.M. Gulati, Advocate
for the petitioners.

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video-conferencing on account of restrictions due to outbreak of pandemic COVID-19.

The present petition has been filed by the petitioners, who are legal representatives of Kaka Daler Singh (since deceased), *inter alia* with a prayer for issuance of directions to the learned Lower Appellate Court/Additional District Judge, Patiala, to decide the application filed by the deceased-Kaka Daler Singh, under Order 41 Rule 5 CPC read with Section 151 CPC (Annexure P-4), which was filed along with the appeal for staying the operation of the impugned judgment and decree passed by the learned Trial Court (Annexure P-2), the same is still pending and has not been taken up.

Learned counsel, based on the pleadings in the petition, submits that the main case is pending before the lower Appellate Court/Court of

Additional District Judge, Patiala, to decide the application filed by the petitioners under Order 41 Rule 5. By making reference to para 10 of the petition, he submits that this application was filed along with the appeal in the year 2017 for staying the operation of the judgment, however, the same has not been decided till date. He further submits that Executing Court, on the other hand, has ordered recovery of the decreed amount after selling the property of the petitioners.

On asking of the Court, learned counsel for the petitioners submits that now the next date before the lower Court is fixed for 27.01.2021.

For the limited direction that this Court intends to issue:-

it is deemed appropriate not to call upon the respondent and fresh service upon the respondent is waived at this stage. The present petition is disposed of with a direction to the lower Appellate Court to decide the application as prayed for by the petitioner i.e. Under Order 41 Rule 5, as expeditiously as possible. It will be appreciated if the same is decided on or before the next date i.e. 27.01.2021. It is further directed that in case, it is necessary to grant a date, the application be decided in any case by 28.02.2021.

Ordered accordingly.

(GIRISH AGNIHOTRI)
JUDGE

09.12.2020

anju rani

Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No