

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 141 of 2020

Date of Decision: 6.3.2020

Inderjit Singh

...Petitioner

Vs.

Mohinder Kuar and another

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Viney Saini, Advocate for
Mr. G.S. Nagra, Advocate
for the petitioner.

RAJIV NARAIN RAINA, J. (Oral)

1. I have no reason to believe from the papers on file that a case for interference is made out in this case, or to connect this revision with main RSA Nos. 1673 [Inderjit Singh v. Mohinder Kaur and another] and 3649 of 2018 [Mohinder Kaur and another v. Inderjit Singh] on the oral request of the counsel for the petitioner, in which notices have not been issued so far not to speak of stay of the judgment appealed from. The earlier appeal, that is, RSA 1673 of 2018 has suffered the one non-effective while four dates of hearing have been adjourned on request. These were on 30.5.2018 [case did not reach] 17.9.2018, 11.4.2019 [requests for adjournment made], 18.10.2019 [short accommodation granted to inspect the records and to argue the matter] and thereafter the case was called on 27.2.2019 and was again adjourned to 1.4.2020 on request. The judgmentdebtor petitioner has

shown lack of diligence in prosecuting his appeal for over two years and has surfaced with this petition clamouring for stay of execution of the money decree.

2. Accordingly, the execution proceedings cannot be resisted in revision when the main appeal in this Court is yet to be argued either on stay matter or in the main appeal. Obviously, he is in a greater hurry than the respondents. The petitioner has a remedy in appeal against the appellate decree and judgment to press his application under Order 41 Rule 5 of the Code of Civil Procedure, 1908, if any, which decree is in execution against the petitioning judgment-debtor.

3. The Petitioner's objections have been dismissed by the learned Civil Judge, Junior Division, Jalandhar for good and sufficient cause holding that in the absence of a stay order in the appeal from the High Court it can do little to subvert the proceedings and prevent implementation of the relief obtained from the two courts below. The court in execution had held that the objections preferred are not maintainable in a contested money suit for recovery of *mesne* profits.

4. No ground is made out warranting interference in exercise of the limited revisional powers under under Article 227 of the Constitution of India since execution follows the decree till such time it is not stayed by a superior court. The order dismissing the objections is legal and valid and does not suffer from any error of jurisdiction or any infirmity on facts and law and is on the other hand consistent with the

relief granted by the learned trial court which has been affirmed by the first appellate court in favour of the decree-holders, the respondents. The court in revision would not grant stay of decree in execution to entrench upon the appellate powers of this Court. That will tantamount to an inverted stay under Order 41 Rule 5 of the Code of Civil Procedure, 1908 which will be a highly improper thing to do.

5. Hence, the petition is misconceived at the stage brought and is as a result devoid of merit and is accordingly dismissed. Rights, if any, are left to be addressed in the pending appeals without making any comment thereon.

(RAJIV NARAIN RAINA)
JUDGE

6.3.2020

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<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether reportable:</i>	<i>Yes/No</i>