

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

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**Civil Revision No.1362 of 2021 (O&M)
Date of Decision: July 23, 2021**

Rakesh Gupta

.....Petitioner.

VERSUS

Subash Rani

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE G. S. SANDHAWALIA

Present: Mr. Jatinder Nagpal, Advocate
for the petitioner.

(The proceedings are being conducted through video
conferencing, as per instructions)

G.S. SANDHAWALIA, J.(Oral)

By filing the present civil revision under Article 227 of the Constitution, petitioner seeks setting aside of the impugned order dated 07.07.2021 (Annexure P-6) passed by Civil Judge (Junior Division), Ludhiana. By virtue of the said order, interim order, which was granted to the petitioner-tenant on 29.03.2019 has been vacated. The same was done on account of the fact that petitioner-plaintiff had not appeared on two occasions i.e. 27.01.2021 and 07.04.2021. The reply to the application under Order I Rule 10 CPC filed by the bank, who is secured creditor, had not been filed, therefore, the trial Court had come to the conclusion that it was a collusive suit and has vacated the stay.

Counsel for the petitioner has vehemently submitted that on

account of COVID-19 situation, counsel for the petitioner-plaintiff had not appeared.

This Court does not feel that it is a fit case, as such, to entertain the petition under Article 227 of the Constitution since the petitioner has an alternate efficacious remedy of firstly approaching the trial Court itself and put in appearance so that the Court is assured that the interim order is not misused. On appearance, the petitioner will also be required to file reply to the application under Order I Rule 10 CPC and on doing so, the Court can examine the application, as such, for extension of the stay. In case, adverse order order is passed, it is always open to the petitioner to approach this Court on the grounds which have already been taken.

Accordingly, the present petition is disposed of with liberty to the petitioner to firstly approach the Court concerned and seek extension of stay or recall of the impugned order by filing an appropriate application. In case, the petitioner does so within a period of one week from today, it is expected that trial Court shall decide the said application within one week thereafter.

With the above observations, the present petition stands disposed of.

July 23, 2021

Sachin M.

**(G. S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*