

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

C.R. No.2989 of 2021 (O&M)

DATE OF DECISION: 02.12.2021

Surjit Kaur (since deceased) through her legal representatives and others
.....Petitioners

versus

M/s Master Trust Limited and others
.....Respondents

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Gurcharan Dass, Advocate for the petitioners

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ALKA SARIN, J. (Oral):

Heard in physical mode.

The limited prayer in the present revision petition is for issuance of a direction to the Court below to expedite the decision in the application filed under Section 148 of the Code of Civil Procedure, 1908 (CPC) in Civil Appeal No.633 dated 03.07.2017 titled as *Surjit Kaur and others vs. M/s Master Trust Limited*.

Learned counsel for the petitioners would contend that on 18.12.2017 the application under Order 41 Rule 5 CPC was taken up along with the appeal filed by the petitioners herein and the following order was passed:

*“Today, this case was fixed for consideration on
application under Order 41 Rule 5 CPC as well as*

for hearing final arguments. However, counsel for respondent Sh. Parveen Garg, Adv. suffered statement to the effect that the respondent/complainant will not file the execution petition for executing the decree till the next date of hearing. In case the appellant furnish adequate security as provided under Order 41 Rule 5 CPC for due performance of decree, in case if appeal is dismissed and subject to the condition that appellant will not seek any date for advancing arguments beyond the next date of hearing. He further stated that in default of any of these conditions, the respondent may not be directed to remain bound by this undertaking. Keeping in view above mentioned statement suffered by learned counsel for respondent, now to come up for advancing final arguments on 23.01.2018 by both the parties and respondent will remain bound by his statement suffered above through counsel, subject to the condition of furnishing personal bonds by the appellant to the tune of Rs.1,32,61,000/- (One crore thirty two lac sixty one thousand) with one surety in the like amount within 15 days from today.”

Learned counsel for the petitioners would contend that the said order dated 18.12.2017 was inadvertently not brought to the notice of the petitioners and the petitioners came to know of the next date fixed

therein i.e. 23.01.2018 on that very date the petitioners furnished the personal bonds to the tune Rs.1,32,61,000/- with one surety in the like amount and also filed an application under Section 148 CPC for enlargement of time. The learned counsel would further contend that since 23.01.2018 the said application is pending and no order has been passed thereupon. Meanwhile, the respondents are proceeding with the execution and now the case before the Executing Court is fixed for 10.12.2021.

Learned counsel for the petitioners states that at this stage he limits his prayer and would be satisfied if a direction is issued to the Court of the Additional District Judge, Ludhiana to expedite the decision on the application under Section 148 CPC for enlargement of time.

In view of the peculiar facts of the present case and in view of the limited prayer made by the learned counsel for the petitioners as also the fact that the case is not being decided on merits, the service of notices upon the respondents is dispensed with at this stage.

Without commenting on the merits of the case the present revision petition is disposed off with a direction to the Court of Additional District Judge, Ludhiana to expedite the decision on the application under Section 148 CPC, which has been pending since 23.01.2018, and make an endeavour to dispose off the same on the next date of hearing which is stated to be 06.12.2021.

Disposed off accordingly.

(ALKA SARIN)
JUDGE

02.12.2021
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<u>NOTE:</u> Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
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