

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.844 of 2022 (O&M)

Date of decision:10.03.2022

Kamal Singh

...Petitioner

Versus

Mayuri Jain

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjay Majithia, Sr. Advocate, with
Mr. Vinay Gaur, Advocate,
for the petitioner.

ANIL KSHETARPAL, J (Oral)

The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

In an execution petition, the Executing Court has declined to keep the proceedings in abeyance till the decision of the first appeal which is stated to be pending in the High Court. On 19.03.2021, while hearing the Regular First Appeal-COM-8-2019, the Division Bench passed the following order:-

“CM-1-RFCOM-2021

Prayer in the present application is for preponement of hearing of actual date of appeal.

For the reasons mentioned in the application which is supported by an affidavit of the applicant-appellant, the present application is allowed. Regular First Appeal-Commercial is taken on Board for consideration.

RFA-COM-8-2019

Notice of motion for 05.08.2021.

Release of the amount decreed to respondent no.1 would be subject to respondent no.1 furnishing bank guarantee to the tune of whole amount.”

The Executing Court while dismissing the application filed by the judgment debtor has directed the release of the amount on furnishing

bank guarantee as ordered by the Division Bench.

The learned senior counsel representing the petitioner relies upon the following judgments:-

- (i) **Civil Revision No.2066 of 2004 (Krishan Kumar vs. State Bank of Patiala and others), decided on 15.07.2005**
- (ii) **CWP No.14492 of 1998 (Jagdish Chander and others vs. Karnal Improvement Trust and others) decided on 30.04.2005.**
- (iii) **Civil Revision No.3844 of 2006 (Mutti Commission Agents vs. Shingara Singh and others) decided on 27.11.2006.**
- (iv) **Civil Revision No.4771 of 2006 (Amarjit Kaur vs. Bhupinder Singh), decided on 11.12.2006.”**

He contends that proprietary demands that the Executing Court should keep the execution petition pending during the pendency of the First appeal.

It is evident from the reading of the order extracted above, that the Division Bench has, itself, permitted the release of the amount on the condition of respondent no.1 furnishing bank guarantee to the tune of the whole amount. The Executing Court has proceeded in accordance with the aforesaid order.

In these circumstances, the judgments relied upon by the learned counsel representing the petitioner, with highest respect, are not applicable.

Hence, dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

March 10, 2022
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No