

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

**CR-1894-2022 (O&M)
Date of decision : 13.05.2022**

Sunil Kumar

... Petitioner(s)

Versus

Narinder Kumar

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Parminder Singh, Advocate for the petitioner.

ALKA SARIN, J. (ORAL)

The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 29.11.2021 (Annexure P-9) whereby the prayer for stay of execution petition during the pendency of the appeal against the rejection of application under Order 9 Rule 13 of the Code of Civil Procedure, 1908 (CPC) has been rejected and warrants of attachment of property have been issued.

Learned counsel for the petitioner would contend that the plaintiff-decree holder, respondent herein, had obtained an *ex parte* judgment and decree against the judgment debtor-petitioner in order to grab his property. On coming to know of the *ex parte* judgment and decree, the judgment debtor-petitioner has filed an application under Order 9 Rule 13 of CPC which was dismissed vide order dated 01.02.2019 and against the said order an appeal was preferred which is pending for 16.07.2022. Learned counsel for the petitioner would further contend that the judgment debtor-

petitioner has also filed an application for stay of the execution petition, which was dismissed vide order dated 29.11.2021 (Annexure P-9). The said application for stay was contested by the plaintiff-decree holder, respondent herein, on the ground that vide order dated 18.03.2019 passed by this Court in **CR-1869-2019** titled ***Sunil Kumar Vs. Narinder Kumar*** (Annexure P-6), it was clarified that it will be open to the Executing Court to proceed with the execution proceedings.

Learned counsel for the petitioner would further contend that at least till such time the appeal filed by the petitioner or till such time the application for stay filed by him along with the appeal challenging the dismissal of the application under Order 9 Rule 13 of CPC is not adjudicated upon, the execution proceedings be kept in abeyance.

Heard.

In view of the peculiar facts and circumstances of the present case, this Court is of the opinion that ends of justice would be served by issuance of a direction to the Appellate Court to decide the application for stay, if not the appeal, on the next date of hearing which is 16.07.2022.

With the above directions, the present civil revision petition stands disposed off. Pending applications, if any, also stand disposed off.

13.05.2022
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO