

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

136

CR-1939-2022

Date of decision: 13.05.2022

Sanjay Nagrath

.....Petitioner

Versus

Raj Kumar Nagrath and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rajesh Bansal, Advocate
for the petitioner.

Mr. Anurag Jain, Advocate
for the respondents.

MANJARI NEHRU KAUL, J.

The instant revision petition has been filed under Article 227 of the Constitution of India with a prayer to set aside order dated 28.04.2022 (Annexure P-1) passed by learned Additional Civil Judge (Sr. Divn.), Panchkula in Execution No.08/2021 dated 24.02.2021 titled as 'Raj Kumar Nagrath Vs. Sanjay Nagrath' pending for 16.07.2022.

Learned counsel for the petitioner submits that while issuing the warrants of possession, the Executing Court had misinterpreted the order dated 22.11.2019 passed by this Court in Regular Second Appeal No.244 of 2015 by exceeding its jurisdiction and ignoring that the status quo order dated 21.01.2015 regarding possession passed in the aforementioned Regular Second Appeal was still in operation. Learned counsel submits that since there was an interim order of stay in favour of the petitioner/judgment debtor, no warrants of possession could have been executed by the Executing Court.

I have heard learned counsel and perused the material on record including the impugned order.

It would be relevant to point out here that this Court vide order dated 22.11.2019 (Annexure P-6) had directed the petitioner/judgment debtor to pay mesne profits at the rate of Rs.7,000/- per month as assessed by the lower appellate Court for the period starting from 23.09.2013 upto January, 2020. This amount was to be paid within two months from 22.11.2019 i.e. the date of the order. It was also clarified in the same order that in case of non-compliance, the respondent/plaintiff/decreed holder would be at liberty to proceed with the execution of the judgment and decrees passed by the Courts below. The petitioner/judgment debtor thereafter assailed the order dated 22.11.2019 (Annexure P-6) before the Hon'ble Supreme Court which dismissed the SLP. The order dated 22.11.2019 (Annexure P-6) was upheld by the Hon'ble Supreme Court vide Annexure P-7. The Hon'ble Supreme Court, however, granted an additional period of 30 days to the petitioner/judgment debtor to deposit the mesne profits. The petitioner/judgment debtor failed to deposit the amount of mesne profits before the Executing Court despite an extension of 30 days time given by the Hon'ble Supreme Court. Consequently, the Executing Court proceeded with the execution proceedings and vide order dated 16.07.2021 (Annexure P-10) directed the respondent/decreed holder to file his calculation sheet of mesne profits. The petitioner/judgment debtor then challenged the order dated 16.07.2021 (Annexure P-10) before this Court by way of Civil Revision No.1910 of 2021 which was dismissed vide order dated 15.09.2021 (Annexure P-11). It may be

noticed here that even though a prayer was made by the petitioner/judgment debtor for stay of the executing proceedings, however, the same was declined by this Court.

The Executing Court vide the impugned order dismissed the objections of the petitioner/judgment debtor and issued warrants of possession qua the suit property. Thus, this revision petition.

On a pointed query put to the learned counsel as to whether the amount of mesne profits as per the calculation sheet provided by the respondent/decree holder had been paid or not, he replied in the negative.

This Court has no hesitation in observing that the petitioner/judgment debtor has been repeatedly defying the orders of the Court. This case is a classic example of abuse of the process of law wherein the respondent/decree holder has been unable to execute the judgment and decrees passed in his favour by the Courts below on account of the hurdles created by the petitioner/judgment debtor. The petitioner/judgment debtor has defied the orders of not only this Court but even the orders of the highest Court of the land. Therefore, no interference at all is warranted in the impugned order.

Dismissed.

13.05.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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