

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

CR-3117-2022

Date of decision : 06.08.2022

Jaspal Singh

...Petitioner

Vs.

Kanwaljit Singh

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. S.K.Jain, Advocate for the petitioner.

MANOJ BAJAJ, J.

Petitioner (plaintiff) has invoked the superintendence powers of this Court under Article 227 Constitution of India with a prayer for expeditious disposal of his stay application filed under Order 41 Rule 5 CPC along with appeal challenging the judgment and decree dated 09.04.2018 passed by Civil Judge (Junior Division) SAS Nagar, Mohali.

Learned counsel for the petitioner (appellant) submits that while dismissing his suit, trial Court accepted the cross-objections filed by the defendant and passed the decree for possession in respect of the suit property in defendant's favour on 09.04.2018. According to him, aggrieved against the said decree, petitioner preferred first appeal before Additional District Judge, SAS Nagar along with an application seeking interim stay of the impugned decree, but the same is still pending adjudication.

Further, learned counsel has drawn the attention of the Court to the execution proceedings being pressed by decree-holder against him, as vide order dated 27.07.2022 (Annexure P-4), warrants of possession have been issued against the petitioner. He further states that even an application seeking pre-ponement of hearing of the stay application was also filed, but the same is

also not decided so far. He prays that the direction be issued to the appellate Court to decide the application for stay filed by the petitioner.

Heard.

The above sequence of events shows that the judgment and decree, which is put under execution by defendant is yet to attain finality as the appeal against said decree is pending before first appellate Court. In the event of execution of impugned decree, the appeal would be rendered meaningless, therefore, interference by this Court is warranted.

However, considering the limited relief prayed by the petitioner, this Court is not inclined to issue notice to the respondent, as it may cause unnecessary burden upon him, but at the same time, he shall be at liberty to seek recalling of this order in case, he feels that the petitioner has concealed material facts from this Court.

Resultantly, the petition is disposed of with a direction to the appellate Court to expeditiously decide the application for stay filed along with the appeal bearing No.635-2018 preferred by petitioner, preferably within a period of four weeks.

Till the decision of the application, the warrants of possession issued vide order dated 27.07.2022 by the executing Court shall remain stayed.

(MANOJ BAJAJ)
JUDGE

06.08.2022

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No