

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

CR-4814-2022 (O&M)

Date of decision : 09.11.2022

International Customer Related Management
Services Pvt. Ltd.

... Petitioner(s)

Versus

Pankaj Chhabra & Anr.

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

Mr. C.M. Munjal, Advocate for the caveator-respondents.

ALKA SARIN, J. (ORAL)

The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 30.08.2022 (Annexure P-11).

Learned counsel for the petitioner would contend that the suit filed by the plaintiff-petitioner for specific performance of contract on the basis of agreement to sell dated 19.01.2007 qua sale of land measuring 17 kanals 05.54 marlas was decreed in favour of the plaintiff-petitioner vide judgment and decree dated 18.01.2017. Aggrieved by the said judgment and decree, an appeal was preferred by the defendant-respondents. The defendant-respondents approached this Court during the pendency of the appeal for a direction that the stay application be decided expeditiously. Vide order dated 09.08.2022 this Court in CR No.3170 of 2022 requested the lower Appellate Court to take a decision on the stay application. Vide the

impugned order dated 30.08.2022 the stay application has been allowed merely on the ground that an order had been passed by this Court to expeditiously decide the stay application.

The lower Appellate Court Court has passed the impugned order holding that *“But this Court is of the considered view that Hon’ble Punjab and Haryana High Court, Chandigarh has directed this Court vide order dated 09.08.2022 to dispose of the stay application. If the operation of the impugned judgment and decree dated 18.01.2017 is not stayed, the appeal may become infructuous and there will be multiplicity of the litigations. As such, the application under Order 41 Rule 5 of CPC is allowed to the extent that the respondent be restrained from further alienation of the suit property”*. The lower Appellate Court has chosen not to go into the merits of the stay application. The impugned order dated 30.08.2022 (Annexure P-11), therefore, cannot be sustained in law and is accordingly set aside. The lower Appellate Court is directed to decide the stay application on merits, in accordance with law, within a period of two months from the date of passing of this order, in the alternative the main appeal itself may be disposed off within the stipulated time.

Disposed off accordingly. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

09.11.2022
Yogesh Sharma

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