

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

CR-695-2023

Date of Decision: 02.02.2023

Jaspal Singh

..... Petitioner

Versus

Satish Kumar

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Abhay Gupta, Advocate,
 for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

This is a petition filed under Article 227 of the Constitution of India for setting aside the order dated 28.10.2021 passed by the Civil Judge (Junior Division), Samrala, whereby the application of the petitioner for staying the proceedings of the execution and to recall the order of the auction has been dismissed.

It is submitted by the learned counsel for the petitioner that the decree under execution was passed against the petitioner on 15.12.2018. The petitioner preferred the first appeal against the said judgment and decree on 21.01.2019 itself. However, the said appeal has not been decided so far.

On the other hand, the Executing Court is proceedings to execute the decree. The property of the petitioner has already been attached and the same are now to be put to auction on 02.02.2023. Therefore, the application for staying the execution proceedings has wrongly been rejected by the Executing Court.

Having heard learned counsel for the petitioner and pursued the case file, this Court finds substance in the arguments raised by the learned counsel for the petitioner. The petitioner has, undisputedly, filed the appeal well within the limitation. The appeal is pending before the Appellate Court for about four years and is now fixed for final arguments. Therefore, no prejudice would be caused to the decree holder if the lower Appellate Court is directed to decide the appeal at the earliest possible; and only till then the proceedings of the Execution Court are stayed. Rather, the same would serve the interest of justice and would also cater to the consequences arising from the decision of the appeal filed by the petitioner.

Accordingly, the impugned order is set aside. The execution proceedings are ordered to be stayed till the appeal is decided by the lower Appellate Court.

The Appellate Court is also directed to decide the appeal on the date next fixed before it, which is stated to be 20.03.2023. A copy of this order be sent to the Appellate Court; as well.

(RAJBIR SEHRAWAT)
JUDGE

02.02.2023
adhikari

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