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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision 12.04.2023

Gian Chand (deceased) through his Legal Heir*Petitioner*
versus
Poonam Wadhwa*Respondent*

Coram: Hon'ble Mr. Justice Rajbir Sehrawat

Present: Mr. Kushagra Mahajan, Advocate for the petitioner

Rajbir Sehrawat, J. (Oral)

The present revision petition has been filed under Article 227 of the Constitution of India, praying for issuance of directions to the Additional District Judge, Amritsar, to decide the stay application (Annexure P5) filed along with CMA-29-2020 titled as '*Gian Singh vs Poonam Wadhwa*' as expeditiously as possible, preferably before 17.04.2023 (date fixed in the execution application).

Counsel for the petitioner submits that the petitioner, being the judgment debtor has challenged the ex parte judgment and decree dated 03.08.1993 passed by the trial Court, by way of appeal; which was filed way back in the year 2020. The parties have been duly represented before the lower appellate Court. Despite that, the appeal has not been taken up for final decision. Counsel has also submitted that on the one hand, the lower appellate Court has not decided even the application moved for grant of interim stay and on the other hand, the decree holder is pressing hard for

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execution of the decree dated 03.08.1993 before the executing Court. It is further submitted by counsel that if the decree is executed, then the petitioner would suffer an irreparable loss because even the judgment and decree were passed *ex parte*.

Having heard counsel for the petitioner and having perused the case file, this Court finds that the parties have been duly appearing before the appellate Court. There is no impediment for the lower appellate Court to take a final decision upon the appeal filed by the petitioner. Hence, the present petition is disposed of with a direction to the lower appellate Court to take a final decision on the appeal filed by the petitioner, within a period of three months from the next date fixed before it.

Till then only, the execution proceedings are ordered to be kept in abeyance by the executing Court.

However, this order shall not be taken as an expression on merits of the case as such. The appeal shall be decided on merits without being affected by any observations made in the present order.

In view of the above, the present petition is disposed of.

(Rajbir Sehrawat)
Judge

April 12, 2023
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Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No