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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: May 01, 2023

Harbant Singh

....Petitioner

versus

Punnu Ram

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. S.S. Sahu, Advocate for petitioner.

ARUN MONGA, J. (ORAL)

Petition herein *inter alia* is for directing learned Additional District Judge, Fatehabad to take up appeal bearing No.176-CA dated 20.12.2016 along with application to stay operation of judgment/ decree dated 16.11.2016 (Annexure P-1) passed by learned Additional Civil Judge (Senior Division), Ratia, District Fatehabad, which has not been decided, and respondent-plaintiff has filed execution petition wherein conditional warrants have been issued.

2. The revision petition is premised on the averments that respondent-plaintiff filed suit for recovery of Rs.7,70,000/- i.e., Rs.5,00,000/- as principal amount and Rs.2,70,000/- as interest at the rate of Rs.1.50/- per hundred per month from 19.10.2012 to 16.10.2015, which was borrowed by defendant from plaintiff after receiving Rs.5,00,000/- in cash in the presence of witnesses, along with interest at the rate of Rs.1.50/- per hundred per month from 17.10.2015 till realization. Vide judgment/ decree dated 16.11.2016, learned trial Court decreed the suit.

2.1. Aggrieved, petitioner filed appeal against aforesaid judgment/decreed dated 16.11.2016 being an indigent person, along with an application for stay of operation of said judgment/ decree. Respondent-plaintiff filed execution petition, which was dismissed as withdrawn on the ground that plaintiff failed to furnish any

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list of properties. Thereafter, plaintiff again filed execution petition without any list of properties. Learned Executing Court vide order dated 31.03.2023 (Annexure P-9), issued conditional warrants, however, application for stay is still pending till date.

3. Considering the nature, facts and circumstances of the case, issuance of notice to respondent-plaintiff is dispensed with, at this stage.

4. I have heard learned counsel for petitioner and perused case file.

5. From the averments of the petition, it is borne out that against money decree dated 16.11.2016 (Annexure P-1) passed by learned trial Court, petitioner had filed first appeal bearing No.176-CA-2016 dated 20.12.2016 before learned First Appellate Court. Along with the first appeal, a separate application seeking stay on the operation of judgment/ decree was also filed. Despite the application having been filed almost 7-year ago, on one hand, the same is kept pending without there being any order either way owing to which the petitioner could not avail any other remedy on the other hand, in the meanwhile, taking advantage of delay in disposal of the stay application, respondent-decree holder has preferred execution proceedings wherein vide impugned warrants of arrests dated 31.03.2023, learned Executing Court has directed the Station House Officer of the area concerned to cause arrest of petitioner in the event, he does not pay decretal amount which is under challenge in the first appeal.

6. Be that as it may, as a one-time measure, impugned warrants of arrest dated 31.03.2023 are directed to be kept abeyance with the request to learned First Appellate Court to dispose of the pending stay application filed in the appeal and if possible, the main appeal at the earliest. This order of stay will enure till disposal of the pending stay application by the learned First Appellate Court.

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7. Revision petition is disposed of with an expectation that pending application(s) shall be decided as expeditiously as possible without granting any unnecessary adjournments.
8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

May 01, 2023
mahavir

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