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

CR-3409-2023 (O&M)

Date of Decision: 31.05.2023

Jatin Arora

...Petitioner

Versus

Amit Arora

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Vikas Bali, Advocate
for the petitioner.

ARUN MONGA, J. (ORAL)

CM-10212-CII-2023

Allowed as prayed for, subject to all just exceptions.

Main case

Petition herein is for issuance of directions to Ld. First Appellate Court to decide the application dated 16.05.2023 (Annexure P-13) for staying the operation of order/judgment under Appeal in Civil Appeal No.586 of 2019, titled '*Jatin Arora vs. Amit Arora*', which is now fixed for 25.07.2023.

2. Succinct facts first, as pleaded in the instant petition.

2.1. Respondent/plaintiff had filed a suit for eviction, recovery of possession, recovery of arrears of rent, damages and *mesne* profits. Respondent/plaintiff claimed himself to be son of Late Mr. J.K. Arora (hereinafter referred to as 'Lessor') and thus being the Lessor of the premises, filed the instant suit for eviction of petitioner/defendant.

2.2. On appraisal of evidence vis-à-vis pleadings, Ld. Civil Judge (Jr. Division), Gurugram vide judgment and decree dated 04.11.2019 (Annexure P-3) decreed the suit upon application filed by respondent under Order XII Rule 6 CPC read with Order XX Rule 12 CPC.

2.3. Aggrieved, petitioner/defendant preferred an appeal bearing Civil Appeal No.586 of 2019 (Annexure P-4). Upon entrustment of appeal, Ld. First Appellate Court issued notice to respondent/plaintiff and vide order dated 04.12.2019 (Annexure P-5), stayed the implementation of impugned judgment and decree.

2.4. On 31.01.2020, respondent appeared and filed *Vakalatnama* and the case was adjourned to 15.02.2020. Further it was adjourned to 17.02.2020 and subsequently the case was fixed for 24.03.2020. From March-2020 uptil 05.08.2021, the case was not taken up for hearing due to COVID-19 pandemic. On 05.08.2021, as Ld. Additional District Judge was on leave, the matter was adjourned to 24.09.2021. Vide order dated 24.09.2021 (Annexure P-7), Ld. First Appellate Court revoked the stay granted in favour of petitioner/appellant with the observation that vide order dated 17.02.2020 directions were issued for depositing the complete rent in the name of Court which was not done.

2.5. Immediately thereafter, petitioner filed application (Annexure P-8) for depositing rent and grant of stay by narrating the reasons therein for not being able to comply with directions of Ld. First Appellate Court.

2.6. Ld. Additional District Judge took up the case on 29.09.2021 and further adjourned the matter to 05.10.2021 when the notice was issued and thereafter petitioner also filed his calculation of arrears of rent and the matter kept on being adjourned for the purpose of consideration of the application. Meanwhile, on 01.12.2021 petitioner even deposited Rs.6 Lakh which stands duly reflected in zimini orders. Thereafter the proceedings before Ld. Additional District Judge are

being adjourned for the purpose of calculation of arrears of rent and lastly vide order dated 16.05.2023 (Annexure P-9 colly.), petitioner again deposited a sum of Rs.10,14,700/- in favour of Ld. Court below which also stands reflected in aforesaid order dated 16.05.2023.

2.7. Respondent, after passing of order dated 24.09.2021 (Annexure P-7) by Ld. Additional District Judge, whereby the stay granted to petitioner was revoked, immediately filed execution petition (Annexure P-10) for executing judgment and decree dated 04.11.2019 (Annexure P-3). Though both the Civil Appeal as well as the Execution proceedings are simultaneous proceedings before the respective Courts, respondent cleverly approached this Court by filing CR No.646 of 2023 seeking the relief for issuance of directions to Ld. Executing Court to decide Execution proceedings in a stipulated period. This Court vide order dated 01.02.2023 (Annexure P-12) disposed of the said revision by observing that it is for the Executing Court to take into account the submissions as raised by respondent herein. Hence, the instant petition.

3. Learned counsel for petitioner would argue that respondent is playing hide and seek with the Court and is intentionally and deliberately misleading Ld. Additional District Judge by not letting the Court to decide the application filed by petitioner seeking stay for the implementation of impugned judgment and decree and Ld. Additional District Judge simply adjourned the appeal to 25.07.2023 though in the meantime, Ld. Executing Court may take any coercive step against him.

4. Given the nature of order being passed, there is no necessity to issue notice to the respondent, as no serious prejudice would be caused to him. Notice to respondent herein is thus dispensed with.

5. Ordinarily, this Court would not have interfered. However, in view of the fact that petitioner/defendant had filed an appeal against judgment and

decree dated 04.11.2019 (Annexure P-3) and along with that application for stay of the said judgment and decree passed by Ld. Trial Court is also pending, yet neither the appeal nor the application has been decided. Situation is rather peculiar, as on one hand learned Executing Court is proceeding ahead for implementation of impugned judgment and decree and on the other hand, both the first appeal and application for stay are still pending. Meanwhile, the petitioner apprehends that in the execution proceedings against him (appellant in first appeal), learned Executing Court may take coercive step against the petitioner.

6. In these circumstances, the revision petition is disposed of with the expectation from Ld. First Appellate Court that it shall take up the matter and decide either the application for stay or the appeal or both, as it may deem fit, without granting any unnecessary adjournments. Meanwhile, as a one-time measure, Ld. Executing Court shall adjourn the matter to a date after the one fixed in the appeal by Ld. First Appellate Court.

7. Pending civil miscellaneous application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

May 31, 2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No