

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

124

CR-3562-2023

Date of Decision: 20.07.2023

Roshan Lal

....Petitioner

Versus

Nirmala Rishi and others

...Respondents

CORAM:HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. K.B. Raheja, Advocate for the petitioner.

SANJAY VASHISTH, J.(Oral)

1. As per the office report, notice sent to respondent No.1 has been received back with the report that she has gone for shooting; notice sent to respondents No. 2 to 6 has not been received back served or otherwise; notice sent to respondent No.8(ii) has been received back unserved with the report that he is out of country and respondents No.7,8 (i), (iii) stands served.

2. Mr. Raheja, learned counsel representing the petitioner submits that the contesting respondents No. 1,3 to 7 are already served and are appearing before the Appellate Court, where the appeal filed by the petitioner is pending adjudication alongwith an application under Order 41 Rule 5 CPC.

3. Therefore, despite the fact that there is no representation today on behalf of the contesting respondents, the relief sought by the

petitioner is of issuing direction to decide the stay application pending before the Appellate Court. To show the appearance of the contesting respondents before the Appellate Court, learned counsel for the petitioner refers to the zimni order dated 25.05.2023 passed by learned District Judge, Mansa, which reads as under:

Present: Sh. K.C. Garg, Adv. Counsel for the appellant.

Sh. Rakesh Kumar Singla, Adv.counsel for respondents No. 1,3 to 6.

Sh.Kashish Singla, Adv.counsel for respondent No.7.

Respondents No.8 (a),(c) are exparte.

File put up before me as Learned Presiding Officer has gone to attend one month induction Training Programme at Chandigarh Judicial Academy from 08th May to 07th June 2023. Notice to respondents not received back. Fresh notice to respondents No.2 & 8(b) be again issued for 08.06.2023. Power of Attorney be also filed by the respondents No. 3 to 6 for the date fixed. File will be taken up on 08.06.2023 (during summer vacation) due to urgency in the matter.

4. Though today, there is no representation on behalf of any of the respondents, service is also incomplete, yet considering the restricted submission made by the learned counsel for the petitioner before this Court, it would be appropriate to issue direction to the Lower Appellate Court to decide the application pending before it, as the contesting respondents, reflecting in the order dated 25.05.2023, are already appearing before it (Lower Appellate Court).

5. Accordingly, learned District Judge, Mansa is directed to decided the stay application filed by the petitioner under Order 41 Rule 5 CPC after giving complete and reasonable opportunity to the contesting respondents, within two weeks from the receipt of the certified copy of this order.
6. However, the endeavor would be made by the Appellate Court to decide the application, if possible, even prior to the date fixed for Execution for warrants of possession i.e. 29.07.2023.
7. Disposed of as such.

[SANJAY VASHISTH]
JUDGE

July 20, 2023
rashmi

Whether speaking/reasoned	Yes/no
Whether reportable?	Yes/no