

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CR-4409-2023

Date of Decision: 11.12.2023

Bal Kishan deceased through LR

....Petitioner

VERSUS

Gurdeep Singh

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. G.C.Shahpuri, Advocate,
for the petitioner.

Mr. Sachin Mittal, Advocate,
for the respondent.

KARAMJIT SINGH, J.

Counsel for the petitioner submits that the application filed by the petitioner under Order 9 Rule 13 CPC for setting aside *ex parte* judgment and decree dated 6.1.2017 is pending in the Court of Civil Judge, Senior Division, Jagadhri wherein notice has already been issued to the respondent. Counsel for the petitioner further submits that no purpose is being served by filing the aforesaid application in case execution proceedings are also going on simultaneously. So, prayer is made that present petition be disposed of with direction to the learned trial Court to firstly, decide the application filed by the petitioner under Order 9 Rule 13 CPC and in the meantime, operation of impugned *ex parte* judgment and decree dated 6.1.2017 be stayed.

2. Counsel appearing on behalf of the respondent submits that the present petition deserves to be dismissed being devoid of merits; that in case any such application under Order 9 Rule 13 CPC is pending, the same will

be decided in accordance with law by the Court concerned on the basis of its own facts and circumstances.

3. I have considered the submissions made by the counsel for the parties.

4. From the perusal of certified copy of order dated 8.8.2023 passed by the Court of Civil Judge, Senior Division, Jagadhri, it appears that the application under Order 9 Rule 13 CPC for setting aside *ex parte* decree dated 6.1.2017 has been filed by the petitioner.

5. Admittedly, at the time of filing the present petition, execution proceedings on the basis of above said *ex parte* decree were also going on. However, vide order dated 4.8.2023, this Court directed both the parties to maintain *status quo* with regard to suit property, as otherwise purpose of filing application under Order 9 Rule 13 CPC would be defeated.

6. In view of above, without commenting on the merits of the case, the present petition is disposed of with direction to the learned trial Court to decide an application filed by the petitioner under Order 9 Rule 13 CPC for setting aside *ex parte* decree dated 6.1.2017 expeditiously, preferably within a period of next 6 months from the date of service/appearance of the respondent in the said application. The parties are directed to maintain *status quo* over the suit property till the disposal of the application filed under Order 9 Rule 13 CPC by the petitioner.

(KARAMJIT SINGH)
JUDGE

December 11, 2023

Paritosh Kumar

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No