

130 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No. 4454 of 2023(O&M)

Date of Decision: 07.08.2023

Omi @ Sompati @ Ompati & Ors.

...Petitioners

Versus

Meda @ Umed & Ors.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Mani Ram Verma, Advocate
For the petitioners.**

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioners/defendants for setting aside order dated 19.05.2023 (Annexure P-6) whereby no interim order is passed on an application filed by the petitioners for staying the execution of warrants of arrest by the Court of Additional District Judge, Hisar.

2. The counsel for the petitioners submits that the suit filed by respondent No.1 Meda was decreed by the learned trial Court vide judgment dated 08.08.2011 (Annexure P-1). The petitioners being aggrieved filed an appeal against the said judgment in the Court of Additional District Judge, Hisar but the same was dismissed in default by the said Court on 21.02.2023 as on the date fixed the petitioners/ their counsel failed to appear in the Appellate Court due to some unavoidable circumstances. In the meantime, the Executing Court issued warrants of possession of the suit property on the basis of the judgment and decree dated 08.08.2011 passed by the learned trial Court. The petitioners filed an application for restoration of the appeal which was dismissed in default on 21.02.2023 wherein notice was issued by

the Appellate Court and contesting respondents put in appearance. Along with the restoration application, an application was also filed for staying the execution of warrants of arrest but the Appellate Court did not pass any interim order in the said application and now the same is fixed for 26.09.2023 for filing of reply on behalf of respondents.

3. The counsel for the petitioner made prayer that he will be satisfied if the first Appellate Court is directed to decide the restoration application in a time bound manner and in the meantime proceedings in the execution proceedings are stayed, as otherwise if the decree is satisfied in the execution proceedings, the purpose of filing restoration application would be defeated.

4. In light of the above, as the restoration application seeking revival of appeal is pending its disposal, the interest of justice demands that the execution proceedings should not proceed further till the disposal of the restoration application in accordance with law.

5. For the foregoing reasons, the present petition is hereby disposed of with direction to the Court of Additional District Judge, Hisar to decide the restoration application filed by the petitioners for restoration of their appeal which was dismissed in default on 21.02.2023, within three months of the next date fixed in the said Court and till then the parties are directed to maintain status quo regarding possession over the suit property.

6. Keeping in view the nature of order being passed, no notice is required to be issued to the respondents. However, if they feel dis-satisfied with this order, they may move an application to recall the same.

(KARAMJIT SINGH)
JUDGE

07.08.2023
Jiten

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