

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.134

Case No. : C. R. No. 5199 of 2023

Date of Decision : September 06, 2023

Nirmal Singh		Petitioner
vs.		
Kamikkar Singh and others		Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Sunny K. Singla, Advocate
for the petitioner.

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GURBIR SINGH, J. :

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is to the order dated 12.07.2023 (Annexure P-6), passed by learned Additional Civil Judge (Senior Division), Malerkotla (for brevity – the Trial Court), whereby application filed by the petitioner, for staying the execution proceedings till the decision of application under Order 9 Rule 7 and 13 CPC, read with Section 151 CPC, has been dismissed.

2. Respondent no.1-Kamikkar Singh is plaintiff and the petitioner-Nirmal Singh is defendant before the learned Trial Court. The parties are being addressed to as in the original suit.

3. Learned counsel for the petitioner submits that plaintiff filed a suit for recovery and vide order dated 01.09.2017, the defendant was proceeded against ex-parte. The ex-parte judgment and decree dated

05.07.2019 (Annexure P-1) was passed by the learned Trial Court. The defendant, on coming to know about the aforesaid ex-parte judgment and decree, filed application under Order 9 Rule 7 & 13 CPC (Annexure P-3) before the learned Trial Court. Learned counsel for the petitioner has submitted that the very purpose of filing the aforesaid application would be frustrated in case the execution proceedings are not stayed. Reliance in support of the aforesaid contentions has been placed upon judgments passed by this Court in CR No.3760 of 2023 titled as Siraj @ Suraj Vs. Sumit Jain decided on 06.07.2023; Davinder Pal Singh and another vs. Narinder Pal Singh and others reported as 2016(3) RCR (Civil) 194; M/s Khass Fashion and another vs. Gurinder Singh reported as 2019(2) Law Herald 1093; Sanjay Sharma vs. Raj Kumar reported as 2020(2) RCR (Rent) 557 and Mehar Singh and others Vs. Firm Pakher Singh and others reported as 2004(1) RCR (Civil) 799.

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

4. Petition is being disposed of without giving notice to the respondents in order to avoid unnecessary burden to respondents. In case, notice is issued, then it may further delay the disposal which may not be in the interest of respondents.

5. The present petition is hereby disposed of and the proceedings in the execution proceedings are hereby stayed till the disposal of the application filed by the petitioner under Order 9 Rule 7 and 13 CPC, for setting aside ex-parte decree. Since it is money decree, so, the petitioner is directed to deposit 30% of the amount of decree in the Executing Court,

which shall be kept in the FDR by learned Executing Court, subject to decision of the application under Order 9 Rule 7 and 13 CPC, within 15 days. In case of default, this order shall automatically stand vacated.

6. The learned Trial Court is directed not to grant any unnecessary adjournments in the application under Order 9 Rule 7 and 13 CPC and all efforts shall be made to dispose of the same within a period of four months.
7. The present revision petition is disposed of in the aforesaid terms.
8. In case, respondents are not satisfied with this order, they can move an application within 30 days to recall this order.
9. Pending applications, if any, shall stand disposed of along with this judgment.

September 06, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.