

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4965-2023
Date of Decision:-**29.08.2023**

TARA SINGH (SINCE DECEASED) THROUGH HIS LR BALWINDER SINGH @
BALWINDER SINGH DHILLON

... Petitioner(s)

Versus

RAJ KUMAR AND ANOTHER

... Respondent(s)

-. -

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-. -

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

-. -

KARAMJIT SINGH, J. (Oral)

1. The present revision petition has been filed by the petitioner/JD against the order dated 10.08.2023 (Annexure P-6) passed by the Court of Additional Civil Judge (Senior Division), Malerkotla, whereby an application filed by the petitioner for staying the execution proceedings till the decision of application under Order 9 Rule 7 /13 CPC for setting aside of *ex-parte* decree, has been dismissed.
2. The counsel for the petitioner submits that respondent No.1 filed suit for recovery of ₹5,57,500/- along with interest against the petitioner and procured *ex-parte* judgment and decree dated 5.4.2018 from the Court of Additional Civil Judge (Senior Division), Malerkotla. That

when the petitioner came to know about the passing of said *ex-parte* judgment and decree, he filed an application under Order 9 Rule 7 / 13 CPC and the same is pending for consideration. In the meanwhile respondent No.1 has filed an application for execution of the aforesaid *ex-parte* decree and the petitioner being aggrieved filed an application for staying the execution proceedings till the decision of an application filed under Order 9 Rule 7 / 13 CPC, which has been dismissed vide impugned order dated 10.08.2023. The counsel for the petitioner further submits that the very purpose of filing an application under Order 9 Rule 7 / 13 CPC would be frustrated in case the execution proceedings are not stayed. In support of his contentions the counsel for the petitioner has referred to Order dated 10.08.2023 passed by the Co-ordinate Bench of this Court in CR-4519-2023 titled as Gurmeet Singh @ Gurmit Singh vs. Bhinder Singh.

3. I have considered the submissions made by counsel for the petitioner.
4. The application filed by the petitioner under Order 9 Rule 7/13 CPC for setting aside *ex-parte* judgment and decree dated 5.4.2018 is still pending and simultaneously the application filed by respondent No.1/ DH for execution of aforesaid *ex-parte* judgment and decree is also pending in the executing Court. In the given circumstances, it would not be proper to rush with the execution proceedings till the decision of the application filed by the petitioner under Order 9 Rule 7/ 13 CPC. If in the meantime, the execution proceedings are not kept in abeyance, the statutory remedy availed by the petitioner under Order 9 Rule 7/13 would be rendered infructuous.

5. In the light of the above, the present petition is hereby disposed of and the proceedings in the execution application are stayed till the application filed by the petitioner under Order 9 Rule 7 / 13 CPC is not adjudicated upon by the Court of Civil Judge concerned, subject to deposit of bank guarantee worth ₹1 lac by the petitioner with the executing Court within next 15 days. However, keeping into consideration the interest of respondent No.1/DH, the learned trial Court is directed to expedite the disposal of application filed under Order 9 Rule 7 / 13 CPC and the same may be decided preferably within 6 months from the next date of hearing fixed in the trial Court.

29.08.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

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