

CR No. 5413 of 2023 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 5413 of 2023 (O&M)

Date of decision : 15.9.2023

...

Davinder Singh and another

.....Petitioners

vs.

Mohinder Singh @ Minder Pal and another

.....Respondents

CORAM : HON'BLE MR JUSTICE SANJAY VASHISTH

Present: Ms. Pridhi Jaswinder Sandhu, Advocate
for the petitioners.

...

SANJAY VASHISTH, J. (Oral)

1. By filing the present revision petition, petitioners (plaintiffs), have prayed for issuance of a direction to the Lower Appellate Court i.e., District Judge, Hoshiapur, to expedite the proceedings in Civil Appeal No. 593 of 2019, titled as “Davinder Singh and others vs. Sukhwinder Singh and others”. Counsel for the petitioners also submits that alongwith the memo of appeal since the year 2019, there is also an application for interim stay, which is yet to be decided.

2. Counsel for the petitioners, further submits that on the one hand, neither the appeal is decided, nor the application for interim stay is being decided by the Lower Appellate Court and on the other hand, the decree passed by the learned trial Court is being

enforced by Executing Court, at the instance of respondent No.1 (defendant No.1).

3. In fact, earlier respondent No.1 (defendant No.1) had approached this Hon'ble Court (Punjab and Haryana High Court), by way of C.R. No. 3270 of 2023, titled as “Mohinder Pal @ Minder Pal vs. Davinder Singh and others”, which was disposed of vide order dated 26.05.2023, by passing following order :-

“CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Naresh Kumar, Advocate for the petitioner.

Harsimran Singh Sethi J. (Oral)

*The present petition has been filed seeking a direction to expedite the proceedings in Execution Petition No. 32 of 2022 titled as **Mohinder Pal @ Minder Pal Vs. Davinder Singh Etc..***

Keeping in view the fact that the execution petition was filed in August, 2022, the Executing Court is requested to decide the execution petition as expeditiously as possible keeping in view the workload with the Court concerned. Petition is disposed of in above terms.”

4. Thus, counsel for the petitioners submits that the rights of the petitioners (appellants before the Lower Appellate Court, who were plaintiffs before the trial Court), are being prejudiced without any decision on the said application or the appeal itself pending before the Lower Appellate Court.

5. After noticing the submissions addressed by the learned counsel for the petitioners and examining the relevant documents referred and appended with the present revision petition, this Court is of the view that the appeal is pending before the Lower Appellate Court for the last four/five years and as addressed by the petitioners, neither the application for interim stay, nor the appeal itself, has been decided till date.

6. Therefore, in the totality of the circumstances, I hereby direct the Lower Appellate Court/First Appellate Court, to decide the pending appeal or the interim stay application, filed by the petitioners herein, **expeditiously and preferably within a period of two months from today, in accordance with law.**

It is made clear that if the Lower Appellate Court is not having sufficient time to decide the appeal finally, the application for interim stay, appended with the memo of appeal, as stated by counsel before this Court, would be decided within the said period of two months, from today.

7. With the aforementioned observations and the terms recorded, the present revision petition, stands disposed of.

Copy of order be forwarded to the concerned Appellate Court for information.

15.9.2023
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(SANJAY VASHISTH)
JUDGE

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