

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**Civil Revision No. 6502 of 2023(O&M)
Date of Decision: 03.11.2023**

Kamlesh Kumar

...**Petitioner**

Versus

Harjot Singh

...**Respondent**

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Pankaj Bali, Advocate
For the petitioner.**

KARAMJIT SINGH, J.

1. Instant revision petition has been filed by the petitioner/ JD seeking setting aside of order dated 07.10.2023 (Annexure P-10) whereby the application filed by the petitioner for staying the proclamation proceedings in an execution application titled Harjot Singh Vs. Kamlesh Kumar has been dismissed by the Court of Civil Judge(Jr.Divn.), Khanna.

2. The counsel for the petitioner while assailing the impugned order has, *inter alia*, contended that respondent procured *ex-parte* decree dated 23.07.2019 for specific performance of agreement to sell 03.12.2012 and when the petitioner came to know about the said decree he immediately filed an application under Order 9 Rule 13 CPC for setting aside of the *ex-parte* decree and the same is now fixed for evidence of the petitioner. In the meantime, the respondent filed execution application wherein the proceedings are going ahead and application under Order 21 Rule 66 CPC has been filed by the respondent seeking attachment of the property of

petitioner. That the application filed by the petitioner seeking stay of the execution proceedings has been dismissed by the Executing Court vide impugned order (Annexure P-10). The counsel for the petitioner further submits that in case the *ex-parte* decree is satisfied in the aforesaid execution proceedings, the purpose of filing of application under Order 9 Rule 13 CPC will be frustrated. The counsel for the petitioner further submits that execution proceedings be stayed till the disposal of application under Order 9 Rule 13 CPC and that the petitioner is ready to give undertaking that he will not dispose of the suit property till then.

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

4. It appears that the application under Order 9 Rule 13 CPC filed by the petitioner for setting aside of *ex-parte* decree dated 23.07.2019 is pending and is fixed for evidence of the petitioner and simultaneously proceedings for execution of *ex-parte* decree dated 23.07.2019 are also going on and in case the execution is satisfied, the entire purpose of filing an application under Order 9 Rule 13 CPC would be defeated.

5. In view of the above, without commenting on the merits of the case, the present petition is hereby disposed of with direction to the petitioner to conclude his evidence within a period of next three months and then the respondent is to conclude his evidence within three months thereof and the trial Court is to decide the application filed under Order 9 Rule 13 CPC within a period of seven months from today and in the meantime execution proceedings are stayed subject to furnishing of written undertaking by the petitioner before the learned trial Court to the effect that

till the disposal of the application under Order 9 Rule 13 CPC, he will not alienate the suit property.

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

**(KARAMJIT SINGH)
JUDGE**

03.11.2023

Jiten

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No