

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(104)

CR No. 6127 of 2022
Date of Decision : 22.02.2023

Ram Kishan Gupta @ Ram Kishan

...Petitioner

Versus

Ramesh Chander Gupta and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gourave Bhayyia Gilhotra, Advocate and
Mr. Akash Manocha, Advocate for the petitioner.

Mr. Abhimanyu Kalsy, Advocate for respondents No. 1 to 7.

Harsimran Singh Sethi J. (Oral)

In the present civil revision petition, the challenge is to the order dated 22.09.2022 (Annexure P-7) by which the trial court refused to stay the execution of the judgment and decree dated 03.12.2015 whereby an ex-parte money decree was passed for recovery of ₹6 lacs along with interest @ 9% per annum in favour of the petitioner-judgment debtor.

Learned counsel for the petitioner argues that for setting-aside the said ex-parte decree, already an application under Order 9 Rule 13 CPC has been filed, which is pending consideration before the trial Court but for execution of the said decree dated 03.12.2015, execution petition has been filed, wherein, the objections raised by the petitioner-judgment debtor have been dismissed. Learned counsel for the petitioner further argues that he

will furnish security his house as a security, which is valued more than ₹47

lacs to show his bona fide that he is not running away from the execution of the decree in question but as, his application under Order 9 Rule 13 CPC for setting-aside the ex-parte decree is pending consideration, he be not forced to deposit the said amount.

Notice of motion was issued.

Mr. Abhimanyu Kalsy, Advocate appears on behalf of respondents No. 1 to 7. Learned counsel for the respondents-decree holders submits that his only intention is to secure the amount for which there is a decree in favour of the respondents-decree holders though, an application under Order 9 Rule 13 CPC has been filed for setting-aside the ex-parte decree of the petitioner. Learned counsel submits that in case, before the Executing Court, on the next date of hearing, the petitioner-judgment debtor submits his house as a surety, he has no objection that the trial court is directed to stay the execution proceedings till the passing of appropriate order on the application under Order 9 Rule 13 CPC.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Keeping in view the facts and circumstances mentioned hereinbefore, once the parties have agreed that as of now, there is a judgment and decree dated 03.12.2015, which has to be executed but, the application filed by the petitioner-judgment debtor under Order 9 Rule 13 CPC for setting aside the said decree is pending consideration with the trial court, it would be appropriate and will also be in the interest of justice that the respondents-decree holders is protected till the decision of the said application filed by the petitioner-judgment debtor under Order 9 Rule 13

CPC.

As an undertaking given before this court, the petitioner-judgment debtor will furnish his house as a surety for the amount, he is liable to pay under the judgment and decree dated 03.12.2015, which will be taken on record by the Executing Court after due satisfaction.

In case, the security is furnished to the satisfaction of the Executing Court, the Executing Court is directed to adjourn the execution proceedings sine-die to await the decision on application filed by the petitioner-judgment debtor under Order 9 Rule 13 CPC and thereafter, in case there is need for the execution of the decree in question, the execution proceedings be revived on an application filed by either of the parties.

It is made clear that in case the petitioner-judgment debtor does not furnish the said security to the satisfaction of the Executing Court on the next date of hearing, the Executing Court will be free to proceed further in accordance with law for execution of the decree dated 03.12.2015 and this order will not come in way of the Executing Court in any manner.

The present civil revision petition is disposed of in above terms.

February 22, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No