

133.

2023:PHHC:151005

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

CR-7127-2023

Date of decision: 28.11.2023

RAM PARTAP

.... Petitioner

Versus

KARAMVIR

.... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Tanvir Singh Attariwala, Advocate, for the petitioner.

GURBIR SINGH, J. (Oral)

1. Prayer in this revision petition filed under Article 227 of the Constitution of India is for setting aside the order dated 06.11.2023 (Annexure P-8) passed by learned Civil Judge (Senior Division), Yamuna Nagar at Jagadhari in execution case i.e. EXE-138/2019 whereby warrant of possession of the suit property as well as warrant of recovery of mesne profits have been issued against the petitioner.

2. Brief facts, as culled out from the petition, are that the respondent-plaintiff (hereinafter called as “plaintiff”) filed a suit for possession of suit land and also sought for mesne profits. Vide judgment dated 22.05.2017, said petition was allowed and the petitioner-defendant (hereinafter called as “defendant”) was directed to handover the possession of suit land to the plaintiff, with a further direction to pay mesne profits @ Rs.10,000/- per month from the date of filing of the suit till date of delivery of possession. The defendant was also restrained from cutting and removing the poplar and eucalyptus trees standing in the suit land. Against the said

order, an appeal was filed on 09.06.2017 along with an application for staying the execution of judgment and decree dated 22.05.2017. It is contended that notice in the appeal was issued, but no order was passed on the stay application. The plaintiff filed execution application under Order 21 Rule 11 CPC on 01.05.2019. The defendant filed objection stating that judgment dated 22.05.2017 has not attained finality. However, vide order dated 06.11.2013, the objection was dismissed and the Executing Court has issued warrant of possession of the suit property as well as warrant of recovery of mesne profits @ Rs.10,000/- per month from the date of filing of suit till date of delivery of possession.

3. Learned counsel for the petitioner has argued that the petitioner is in physical possession of the suit property and if pending appeal, he is dispossessed, he would suffer irreparable loss and injury. The learned appellate Court has only issued notice in the appeal and application, but the same are pending. He prays till disposal of his application for staying the execution of impugned judgment, he be not dispossessed.

4. Having heard learned counsel for the petitioner, the present petition is disposed of with a direction to the appellate Court to dispose of the application moved by the petitioner, in accordance with law and parties are directed to maintain status quo till disposal of application for staying the execution of impugned judgment.

(GURBIR SINGH)
JUDGE

November 28, 2023

sanjeev

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No