

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-607-2024 (O&M)
Date of Decision: 02.02.2024

BHARPUR KAUR @ BHURI

... Petitioner(s)

Versus

BALWAN SINGH

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present:- Mr. Jagraj Singh Khiva, Advocate
for the petitioner.

RITU TAGORE, J. (Oral)

1. This civil revision petition is directed against the order dated 19.01.2024 (Annexure P-13), passed by the Additional Civil Judge (Senior Division), Budhlada in execution petition No.EXE No.19/2023, appointing Local Commissioner to execute sale deed in favour of respondent/plaintiff (decree holder) in terms of judgment and decree dated 03.02.2023, with further direction to learned Appellate Court, Mansa, to decide interim stay application under Order 41 Rule 5 CPC (Annexure P-7) filed by the petitioner alongwith Civil Appeal No.47/2023.
2. Learned counsel for the petitioner stated that respondent-plaintiff filed a suit for specific performance of agreement to sell dated 22.11.2018, which was decreed in his favour vide judgment and decree dated

03.02.2023, passed by the learned Additional Civil Judge (Senior Division), Budhlada, with direction to petitioner-defendant to execute and get the sale deed registered in favour of respondent-plaintiff within a month.

3. Learned counsel for petitioner-defendant urged that petitioner preferred an appeal against the said judgment and decree dated 03.02.2023, and also filed an application alongwith the appeal under Order 41 rule 5 CPC for grant of interim stay, which as of now has not been decided by learned Appellate Court, Mansa and is pending for 07.02.2024. It is stated that if interim stay is not granted to him against the judgment and decree appealed against, the very purpose of his filing the appeal would be frustrated.

4. Keeping in view the scope of relief sought, this Court does not deem it necessary to issue notice to the respondent, as such, same is dispensed with.

5. It is a matter of record that petitioner-defendant's appeal is pending for adjudication before the learned Appellate Court, Mansa. His application under Order 41 Rule 5 CPC for interim stay is also pending before the learned first Appellate Authority. Petitioner cannot be permitted to take parallel proceedings. Admittedly, order of learned Appellate Court is not under challenge before this Court.

6. In view of the above, the petitioner is relegated to agitate his remedy before the first Appellate Court, where admittedly his application for interim relief is pending adjudication. Learned first Appellate Court is directed to decide the application filed Order 41 Rule 5 CPC (Annexure P-7)

in CA No.47 of 2023 (Annexure P-6) on the date already fixed before it.
Present Revision Petition stands disposed of accordingly.

7. Since the main petition has been decided, pending miscellaneous application(s), if any, are also disposed of accordingly.

02.02.2024
Gaurav Sorot

(RITU TAGORE)
JUDGE

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