2024:PHHC:090080

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

123

CR-343-2021 (O&M)
Date of decision: 18.07.2024

BALRAJ SINGH **..Petitioner**

Versus

SATINDER KAUR **..Respondent**

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Prateek Sodhi, Advocate
for the petitioner.

Mr. Lovish Rattan, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

1. The petitioner herein was defendant in a suit for recovery of Rs.10,00,000/- filed by the respondent, which was ex parte decreed against the petitioner. He filed an application under Order IX Rule 13 of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'CPC') to set aside ex parte decree, which is stated to be pending. During the pendency of the proceedings, the petitioner also filed an application for grant of stay of execution, which was dismissed. This revision petition has been filed to assail the correctness of the aforesaid order.

2. On 19.02.2021, the following order was passed:-

> *"Petitioner-Balraj Singh, stated to be aged 63 years, has filed present revision petition inter alia with a prayer for setting aside the order dated 16.03.2020 (Annexure P-6), whereby the Learned Executing Court has refrained from staying execution of judgment and decree dated 21.07.2017 (Annexure P-2), during the pendency of application under Order 9 Rule 13 for setting aside ex-parte judgment and decree rendered against the petitioner.*
>
> *Learned counsel for the petitioner submits that Civil Suit No.5079 of 2015 was filed on 15.10.2016. On*

MOHD AYUB
2024.07.23 11:54
I am the author of this
document

> *21.07.2017, an ex-parte decree was passed, whereby inter alia defendant was held liable to pay a sum of Rs. 10,00,000/- to the plaintiff.*
>
> *Learned counsel then submits that the petitioner filed an application under Order 9 Rule 13 in January 2020. Thereafter, application was also filed before the Executing Court to stay the execution till the decision of application filed under Order 9 Rule 13. Learned counsel further submits that the execution is now fixed for 02.03.2021.*
>
> *Notice of motion be issued for 11.08.2021.*
>
> *The Executing Court is directed to adjourn the execution proceedings beyond the date given by this Court."*

3. The interim order has continued to operate for the last more than three years. In the meantime, in the proceedings under Order IX Rule 13 of the CPC, the respondent was proceeded against ex parte. An application for setting aside ex parte proceeding is stated to be pending.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

5. Admittedly, the proceedings in an application under Order IX Rule 13 of the CPC are pending before the Court for the last more than four years, which are required to be decided expeditiously.

6. Similarly, the application for setting aside the ex parte proceedings in a proceeding under Order IX Rule 13 of the CPC is also required to be decided expeditiously. As there exists a money decree against the petitioner, hence, the interest of the respondent is also required to be secured.

7. Keeping in view the aforesaid facts, the revision petition is disposed of with the following directions:-

i. The petitioner shall deposit a sum of Rs.5,00,000/- within a period of two months from today, with the

MOHD AYUB
2024.07.23 11:54
I am the author of this
document

Executing Court, which shall be invested in a Fixed Deposit Receipt (FDR) fetching maximum rate of interest in a Nationalized bank.

ii. The application filed by the respondent to set aside ex parte proceedings against him in a proceeding under Order IX Rule 13 of the CPC shall be decided within a period of one month, from today.

iii. Efforts shall be made by the trial Court to conclude the proceedings under Order IX Rule 13 of the CPC within next six months, from the date of this order.

8. All the pending miscellaneous applications, if any, are also disposed of.

July 18th, 2024 **(ANIL KSHETARPAL)**
Ay **JUDGE**

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

MOHD AYUB
2024.07.23 11:54
I am the author of this
document