



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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(1)

CR-3629-2024 (O&M)
Date of Decision: 03.07.2024

M/S NITIN TRADING COMPANY COMMISSION AGENT AND
OTHERS

...Petitioners

Versus

PREM

...Respondent

(2)

CR-3636-2024 (O&M)
Date of Decision: 03.07.2024

M/S NITIN TRADING COMPANY COMMISSION AGENT AND
OTHERS

...Petitioners

Versus

RAMESHWAR (SINCE DECEASED) THROUGH HIS LEGAL
REPRESENTATIVES

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Munish Kumar Garg, Advocate
for the petitioners.

VIKAS SURI, J. (ORAL)

1. This order shall dispose of CR-3629-2024, titled as *M/s Nitin Trading Company Commission Agent and others Versus Prem* and CR-3636-2024, titled as *M/s Nitin Trading Company Commission Agent and others Versus Rameshwar (since deceased) through his legal Representatives*, as common issues of law and facts arise therein.

2. For the convenience of reference, the facts are being taken from CR-3629-2024 titled as *M/s Nitin Trading Company Commission Agent and others Versus Prem.*

3. Briefly stated that one Prem s/o Bhira @ Raghbir had filed a suit for recovery of Rs.10,42,606/- against the petitioners which was decreed by the Court of learned Civil Judge (Junior Division), Safidon, vide judgment and decree dated 28.03.2023 (Annexure P-1). The petitioners preferred an appeal against the aforesaid judgment and decree alongwith an application for staying the execution of impugned judgment and decree dated 28.03.2023 (Annexure P-1). Vide order dated 29.04.2024, first Appellate Court stayed the execution subject to the petitioners furnishing security in the sum of Rs.17,00,000/- with one surety in like amount to the satisfaction of the trial Court.

4. Learned counsel for the petitioners submits that as the petitioners are not in possession of any immoveable property, they had approached the first Appellate Court vide application dated 23.05.2024 (Annexure P-7) seeking modification of order dated 29.04.2024, however, the same was not entertained by the Court. Learned counsel for the petitioners does not dispute that the aforesaid application was not presented in the judicial branch, as the appeal was pending before the first Appellate Court and as per practice, applications in pending matters are submitted in the concerned Court itself.

5. Learned counsel for the petitioners prays that at the first instance, let the first appellate Court consider the prayer of the petitioners seeking modification of impugned order dated 29.04.2024.

6. Heard learned counsel for the petitioners and perused the paper book.

7. Admittedly, the appeal preferred by the petitioners is pending before the first Appellate Court for 23.07.2024. The Court vide order dated 29.04.2024 has granted a conditional stay to the petitioners. A perusal of the paper book shows that the petitioners had taken steps for compliance of order dated 29.04.2024, as is evident from the order dated 15.05.2024 (Annexure P-6). However, keeping in view that only partial compliance was being sought to be made on account of the fact alleged that the petitioner/JDs were only having surety and have no property to furnish as security, compliance could not be made. It is thereafter, that the petitioners moved the first Appellate Court by way of application dated 23.05.2024 (Annexure P-7) seeking modification of order dated 29.04.2024. Thus, it is apparent from the record that the first Appellate Court had no occasion to examine the plea, as has been raised before this Court through the instant petition.

8. In view of the limited prayer noticed herein before, the present revision petitions are disposed of with liberty to the petitioners to approach the first Appellate Court afresh, if so advised, seeking modification of the order dated 29.04.2024. In case such an application is moved by the petitioners within 02 weeks from today, the first Appellate Court would dispose of the same expeditiously, in accordance with law.

9. Revision petitions are disposed of in the aforesaid terms.

July 03, 2024

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(VIKAS SURI)

JUDGE

Whether Speaking / Reasoned : Yes/No

Whether Reportable : Yes/No