



CR-5231-2023(O&M)

1

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-5231-2023(O&M)

Date of decision : 20.11.2024

Manjit Singh

... Petitioner

Versus

Sumit Jain

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sunny K. Singla, Advocate
for the petitioner.

Mr. Anil Kumar Garg, Advocate
for the respondent.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the order dated 17.07.2023 passed by the Civil Judge (Jr.Div.), Malerkotla (Annexure P-6) vide which the application for staying the execution proceedings till the decision of application under Order 9 Rule 7 and 13 CPC read with Section 151 CPC filed by the petitioner has been dismissed.

2. On 11.09.2023, a Coordinate Bench of this Court was pleased to pass the following order:-

*“Present: Mr. Sunny K. Singla, Advocate
for the petitioner(s).*

1. *Present revision petition has been filed by the defendant*



(petitioner herein) against the order dated 17.07.2023, whereby, the application for staying the execution proceedings during the pendency of the application under Order 9 Rule 7 & 13 CPC, has been dismissed.

2. *Counsel for the petitioner submits that during the proceedings of the suit, petitioner (defendant) was never served, and thus, could never appear. Resultantly, said suit was decreed ex-parte against him on 17.03.2022. Thereafter, on 12.04.2023, petitioner came to know of the exparte judgment and decree, and immediately thereafter, he moved an application under Order 9 Rule 7 & 13 CPC, for setting aside of the ex-parte order. Said application is still pending adjudication.*

3. *Counsel further submits that he was proceeded ex-parte by the Trial Court on 13th December 2021 i.e. during the period of COVID-19 pandemic.*

4. *Notice of motion for 01.02.2024.*

Process dasti as well.

Meanwhile, Executing Court is directed to adjourn its proceedings beyond the date fixed before this Court.

However, it will be upon the Court below dealing with the application under Order 9 Rule 7 & 13 CPC, to proceed with the same, and if possible to decide also.”

3. Learned counsel appearing for the contesting respondent-decree holder has filed CM-16513-CII-2024 praying that the application filed by the present petitioner under Order 9 Rule 7 and 13 read with Section 151 CPC be decided in a time bound manner.

4. Learned counsel for the petitioner as well as learned counsel for the respondent have jointly submitted that the present petition as well as

CM-16513-CII-2024 be disposed of by directing the Court hearing the



CR-5231-2023(O&M) 3

application under Order 9 Rule 7 and 13 read with Section 151 CPC to decide the same as expeditiously as possible. It has further been prayed that till the time, the said application is decided, the proceedings in the execution application be remain stayed.

5. In view of the joint statement made by learned counsel for the parties, the revision petition as well as CM-16513-CII-2024 are disposed of with the following directions:-

- i) The trial Court is requested to decide the application filed by the present petitioner under Order 9 Rule 7 and 13 read with Section 151 CPC as expeditiously as possible. The counsel appearing for the parties are also requested to fully assist the Court in expedite disposal of the said application under Order 9 Rule 7 and 13 read with Section 151 CPC.
- ii) Till the time the said application is disposed of, the proceedings before the Executing Court shall remain stayed. The grant of stay should not be construed as an expression on the merits of the case and it would be open to both the parties to raise all the pleas which are available to them in the proceedings under Order 9 Rule 7 and 13 read with Section 151 CPC and the Court would decide the same independently, in accordance with law.

(VIKAS BAHL)
JUDGE

November 20, 2024.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No