

SAT NARAIN **V/S** **... PETITIONER**

JAI NARAIN AND OTHERS **... RESPONDENTS**

Present: Mr. Balwan Singh, Advocate for the petitioner.

Ms. Parbeen Kumari Dharwal, Advocate and
Mr. Ranjit Singh, Advocate for
Mr. Amit Kumar Jain, Advocate for respondent Nos.1&2.

None for respondent Nos.3 to 4.

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VIKRAM AGGARWAL, J. (ORAL)

The present revision petition is directed against the order dated 26.05.2021 passed by the Court of learned Addl. District Judge, Jind vide which the application filed by the petitioner/appellant for stay of the operation of the judgment and decree dated 17.02.2020 (Annexure P-5) passed by the Court of learned Addl. Civil Judge (Sr. Divn.), Jind during the pendency of the appeal was dismissed.

2. The facts, as emanating from the revision petition, are that a suit for declaration was filed by the respondents No. 1 to 3 against the present petitioners and one Suraj Bhan, who was impleaded as a proforma defendant. The said suit related to the property of one Chet Ram @ Chetu

who had expired on 07.03.1998. The suit was decreed and the counter-claim filed by the present petitioner was dismissed. It was held that Chet Ram had expired *intestate* and under the circumstance his property would be inherited by his legal heirs in terms of the provisions of the Hindu Succession Act, 1956. An appeal was preferred against the said judgment and decree which is stated to be pending.

3. An application for stay of the operation of the judgment and decree of the trial Court was moved which was dismissed by the Court of learned Addl. District Judge, Jind by way of the impugned order leading to the filing of the present revision petition.

4. I have heard the learned counsel for the parties.

5. Learned counsel for the petitioner submits that the First Appellate Court erred in dismissing the application for stay. He submits that being the last Court of facts, the Appellate Court should have stayed the operation of the impugned order, for, in the absence of the same, the appeal would be rendered infructuous partly when it is finally decided on merits. He further submits that reliance by the Appellate Court on the findings recorded in the criminal case is also misfounded, for, the findings recorded in a criminal case are never binding upon a Civil Court.

6. Per contra, learned counsel representing the respondents has opposed the prayer stating that there is no illegality in the impugned order.

7. I have considered the submissions made by learned counsel for the parties.

8. It has to be borne in mind that the First Appellate Court is the last Court of facts. Vide judgment and decree dated 17.02.2020, the suit

filed by the respondents-plaintiffs was partly decreed and it was held that Chet Ram had died *intestate* and his properties were to be inherited by his legal heirs in accordance with the provisions of the Hindu Succession Act, 1956. No doubt, as per the impugned order, mutation was effected. However, that alone would not be sufficient to decline the relief for stay of operation of the impugned judgment and decree during the pendency of the appeal, for, as mentioned earlier also, the First Appellate Court was the last Court of facts. Under the circumstances, it was desirable that status-quo as regards the disputed property should have been ordered to be maintained during the pendency of the appeal. In any case, the appeal is pending since 2020. It is, therefore, desirable that even the appeal should be decided expeditiously, so that the rights of the parties can be adjudicated.

9. In view of the above, the present revision petition is disposed of with a direction to the First Appellate Court to finally hear and decide the appeal within a period of 4 months from today. Till the disposal of the appeal, status-quo as regards alienation of the suit property shall be maintained.

04.03.2025

Janki

**(VIKRAM AGGARWAL)
JUDGE**

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