

Chander Parkash Vs. Jagdish Kumar EXE-110-2023

CNR No. PBPTA0-000950-2023

Present : Sh.Sumit Mehta, Advocate, counsel for the DH
Sh.Sanjay Bagga, Adv. Counsel for JD.

ORDER:

Arguments heard on the objection filed by Judgment debtor Jagdish Kumar through counsel.

2. It is stated in the objection petition that the present execution petition is fixed for issuance of warrant of possession. The bailiff has come on the shop in question along with warrant of possession and after that the Learned Counsel for the applicant after inspection came to know that warrant of possession has been issued by the court. The JD has already preferred the rent appeal bearing no. 56/2023 before the Learned District Judge, Patiala and same was fixed for 16.10.2023 for notice of DH and now fixed for 16.0.2023. As the appeal is already pending before the Hon'ble court and as per settled law the appeal is continuation of the suit and if the DH succeeded in getting the possession of the shop in question from the JD then the JD will suffer irreparable loss and injury which cannot be compensated in any manner. JD is old poor man and he has no other source of income except the shop in question. Hence, this objection petition.

3. Upon notice reply to present objection filed by taking preliminary objections to the effect that the present reply/objection has been filed just to delay the proceeding and to harass the Decree Holder. There is no stay order passed as per knowledge of the decree holder, even

the Judgment debtor has not produced any stay order on the file so far. As such, objections are liable to be dismissed. In the end prayer has been made to dismiss the objection petition.

4. Record perused.

5. The main premise on which the present objections have preferred by the JD is that he has filed rent appeal bearing No. 56/2023 in the court of Learned District Judge, Patiala. Appeal is pending, as such execution proceedings may not be further advanced.

6. It is well settled law that until and unless there is a specific stay order passed by the Learned Appellate Court the mere pendency of an appeal or revision does not prevent the executing court to implement its order/decree. It is not the case of JD that proceedings of this execution application have been stayed by Learned Appellate Court. So therefore in absence of any specific stay order passed by the Learned Appellate Court the execution proceedings cannot be stalled on any count. It seems that the present objection petition has been preferred with a sole motive to stall the further proceedings in this execution petition. Objections being merit-less stands dismissed.

7. Perusal of the file shows that application for seeking police help has also filed by decree holder. Reply of the said application is also on record. Adjourned to 16.02.2024 for recording statement of decree holder and Bailiff in pursuance of aforesaid application.

Pronounced in open court
Dated: 15.01.2024
Rajinder Kumar JW

Hirdejit Singh, PCS
Rent Controller
Rajpura (PB00328)