

Bhajan Singh Versus Lal Singh

Present: Sh.R Rattan, Advocate for Decree Holder.
Sh.GS Sarao, Advocate for Judgment Debtor No. 2/applicant.

Order

1. Heard on the application filed by the applicant/JD No.2 for staying/sine die the execution proceedings till the decision of RSA No. 168 of 2017 pending before the Hon'ble Punjab and Haryana High Court.

2 The ld. Counsel for the applicant submitted that the applicant/JD No. 2 has filed RSA No. 168 of 2017 against the judgment and decree of the Ld. Court as well as the appellate court before Punjab and Haryana High Court which is fixed for 15.05.2018 for hearing. The ld. Counsel for the applicant submitted that pendency of RSA is in continuation of suit and as such the judgment and decree on the basis of which present execution has been field is in continuation of suit and the same is not final. The ld. Counsel for the applicant submitted that moreover, if the judgment and decree is satisfied, then RSA will become infructuous and the JD/applicant will suffer an irreparable loss and as such the proceedings in the execution are liable to be stayed or sine die till the decision of RSA. The ld. Counsel for the applicant submitted that the application is bonafide one. The ld. Counsel for the applicant further prayed for allowing the application.

3. On the other hand, ld counsel for the DH has submitted that the DH has no knowledge regarding pendency of alleged RSA as no notice has been received by the DH regarding alleged pendency of RSA from the Hon'ble Punjab and Haryana High court. The ld counsel for the DH further submitted that no stay order has been brought on record by the objector. The ld counsel for the

DH further submitted that there is no such ground to stay/sine die the execution proceedings. The ld counsel for the DH further submitted that the application is malafide one. The ld counsel for the DH further prayed for dismissal of the application.

4. I have heard the Ld. Counsels of the parties and have carefully perused the file. Perusal of the present application reveals that the DH has filed the present execution application for enforcement of decree dated 10.12.2014 passed in his favour. Perusal of case file reveals that the present application has been filed on the ground that the JD has filed an RSA in the Hon'ble Punjab and Haryana High Court. However, this plea of the JD is not maintainable as no stay order has been passed in favour of the JD and mere pendency of RSA is no ground to stay the execution. In view of these facts and circumstance, I am of the considered view that the present application is devoid of the merits and accordingly, the same is hereby dismissed and stands disposed of.

(Rahul Garg)
ACJ(SD) Dhuri UID PB-0319

Date of order : 12.04.2018
Judgment writer: Ritu Rani

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Vide my separate detailed order of even day, application filed by the JD No. 2/applicant for staying/sine die the execution proceedings stands dismissed and disposed of. In the present execution, the warrant of possession has already been received back with the report to provide police help. Let notice to concerned field Kaungo Ram Singh and DH for recording their statements be issued for 27.04.2018.

(Rahul Garg)
ACJ(SD) Dhuri UID PB-0319

Date of order : 12.04.2018
Judgment writer: Ritu Rani
Next Date: 27.04.2018
Purpose