

RSA No. 411 of 2016

16.07.2018 Present: Mr. R.K. Sharma, Senior Advocate with Ms. Anita Parmar, Advocate, for the appellant.

Mr. Sunny Dhatwalia, Advocate, for the respondent.

CMP No. 8097 of 2016

The present application, under Order 41, Rule 5, read with Section 151 of the Code of Civil Procedure has been maintained by the applicant for staying the execution of the judgment and decree dated 17.06.2016. As per the applicant, he has good *prima facie* case in his favour and there is every likelihood of succeeding the appeal and in case the execution of the impugned judgment and decree is not stayed, the applicant will suffer. The application is duly supported with an affidavit. Reply to the application has been filed, wherein it is averred that as the applicant is continuing encroachment over the part of the suit land, the present application be dismissed.

Heard. Taking into consideration the fact that the main appeal is pending adjudication and in case during the pendency of the appeal the construction raised by the applicant on the suit land is demolished, he will suffer and the same will also give rise to multiplicity of litigation. Therefore, to meet the ends of justice, interim order dated 28.09.2016, is made absolute and the judgments and decrees of the learned Courts below qua mandatory injunction, are ordered to be stayed, till final disposal of the appeal. Application stands disposed of.

CMP No. 1797 of 2017

After hearing the learned counsel for the parties and going through the records, following issues arise for determination of the present application:

- (I) Whether the non-applicant has disobeyed the orders passed by this Court and he is liable to be punished under the appropriate provisions of law? OPA
- (ii) Whether the application is not maintainable? OPR

No other issue arises nor pressed. Now to come up for the evidence of the applicant on a date to be fixed by the Additional Registrar (Judicial). Steps be taken within two weeks.

Copy dasti.

(Chander Bhusan Barowalia)
Judge

July 16, 2018
(raman)