

Kunta Devi & Another Vs. Sant Ram

RSA No. 278 of 2024

03.01.2025

Present:

Mr. J.R. Poswal, Advocate, for the appellants.

Mr. Bhender Kumar, Advocate, for the respondent.

CMP No. 22508 of 2024.

By way of the present application, filed under Order 41, Rule 5 of CPC, read with Section 151 of CPC, a prayer has been made to stay the execution of the decree dated 10.11.2023, passed by the Court of learned Senior Civil Judge, Court No.1, Sundernagar, District Mandi, (hereinafter referred to as the 'trial Court'), in Civil Suit No.176/2019, titled as Sant Ram Versus Kunta Devi & Another.

2. Vide judgment and decree dated 10.11.2023, the suit of the respondent was decreed, by granting the following relief:-

“19. In view of discussion made on issues No.1 to 4 above, suit of plaintiff is decreed for permanent prohibitory injunction restraining the defendants from causing any sort of interference over the suit land comprised in Khewat No.356, Khatouni No.395, Khasra No.157, 955, 983, 988, 992, 996, 1190 kita-8, measuring 10-12-14 bighas, situated in Muhal Mahadev/10, Tehsil Sundernagar, Distt. Mandi and for vacant possession of the land comprised in Khasra No.996/1 measuring 00-00-07 bighas, shown in tatima Ex.PW1/E. Decree sheet be drawn accordingly and this file complete in all respects be consigned to Record Room.”

3. Against the said judgment and decree, the present applicants have filed appeal before the Court of learned Additional District Judge, Sundernagar, (hereinafter referred to as the 'First Appellate Court'), bearing Civil Appeal No.70 of 2023, titled as Kunta Devi & Another versus Sant Ram.

4. Vide judgment and decree dated 26.07.2024, learned First Appellate Court has dismissed the said appeal preferred by the appellants against the judgment and decree dated 10.11.2023 passed by the learned trial Court.

5. Now, the parties are before this Court, by way of the Regular Second Appeal. The appeal preferred by the applicants-appellants has not yet been admitted, but certainly, it will take sufficient time for its disposal. As such, the application is allowed and during the pendency of the appeal, execution of the decree, passed by the learned trial Court, and affirmed by the learned First Appellate Court, qua the relief of possession of the land comprised in Khasra No.996/1 measuring 00-00-07 bighas, shown in tatima Ex.PW1/E, is ordered to be stayed, subject to the conditions :-

- a) That the applicants-appellants shall deposit a sum of Rs.2,000/- per annum,

as use and occupation charges, from the date of filing of the appeal, till date and also shall continue to deposit the use and occupation charges till the decision of the appeal.

- b) Security bond in the sum of Rs.50,000/-, to the satisfaction of the learned trial Court (Executing Court), be also furnished, by the applicants, within seven days from today, by giving an undertaking for due performance of the decree, which has been passed by the learned trial Court, as modified by the learned Appellate Court, in case of ultimate dismissal of the appeal by this Court.

6. It is further clarified that the stay of the execution of the decree shall operate, when the above order is complied with.

7. It is also clarified that the amount of interest, shall not be disbursed to any of the parties and the entitlement of the same will be decided, by this Court, at the time of final hearing of the appeal.

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List for admission hearing after winter vacation.

**(Virender Singh)
Judge**

January 03, 2025 (ps)