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SLP(C)No. 9487 OF 2000

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 3510 of 2001@@

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(Arising out of S.L.P. (Civil) 9487 of 2000)

Sham Lal Bansal ..Appellant

Vs.

Surinder Parkash Dhir & Anr. ..Respondents

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.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J  
.SP2

Leave granted.

Respondent obtained a decree of eviction in respect of a particular building under the East Punjab Urban Rent Restriction Act, 1949 as applicable to Union Territory of Chandigarh. Appellant was not a party in the said proceedings. When respondent moved in execution for delivery of possession of the building appellant approached the same court by filing two petitions, one was by raising objections to the execution and the other was for stay of the execution proceedings until disposal of the objections. The Execution Court passed an order on 25.5.2000 declining to stay the execution proceedings. That order was challenged by the appellant before the High Court. But the High Court did not interfere and the impugned order was passed by the High Court.

We are not sure whether respondent has filed any application for removal of the resistance or obstruction made by the appellant for execution of the decree passed in favour ..2/-

:2:

of the respondent. Execution Court can proceed to execute the decree (when any person had resisted or obstructed the decree in obtaining possession of the property) only after deciding the application which the holder of a decree would make to the court complaining of such resistance or obstruction. Learned counsel for the respondent is not sure whether any such application as envisaged in Order 21 Rule 97 CPC has been filed before the Execution Court. If it is not filed we permit the respondent to file such an application because of the objections raised by the appellant in the Execution Court. If any such application has already been filed it is open to the appellant to file his counter against that application. Further proceedings in execution will depend upon the order which the Execution Court would pass in terms of Order 21 Rule 101 of the Code of Civil Procedure.

Learned counsel requests that a direction may be given to the Execution Court for adopting the steps expeditiously. It is upto the respondent to move for expeditious disposal of the matter.

This appeal is disposed of accordingly.

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.....J.@@  
BB  
(K.T. THOMAS)@@  
BB

.....J.@@  
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(R.P. SETHI)@@  
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NEW DELHI@@  
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Leave granted.  
Respondent obtained a decree of eviction in respect of a particular building under the East Punjab Urban Rent Restriction Act, 1949 as applicable to Union Territory of Chandigarh. Appellant was not a party in the said proceedings. When respondent moved in execution for delivery of possession of the building appellant approached the same court by filing two petitions, one was by raising objections to the execution and the other was for stay of the execution proceedings until disposal of the objections. The Execution Court passed an order on 25.5.2000 declining to stay the execution proceedings. That order was challenged by the appellant before the High Court. But the High Court did not interfere and the impugned order was passed by the High Court.  
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:2:  
of the respondent. Execution Court can proceed to execute the decree (when any person had resisted or obstructed the decree in obtaining possession of the property) only after deciding



For Petitioner (s)

Mr. K.K. Mohan,Adv.

For Respondent No. 1

Mr. Pradeep Gupta,Adv.

Mr. Srinivas,Adv.

for Mr. K.K. Gupta,Adv.

UPON hearing counsel the Court made the following

O R D E R

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Leave granted.

Appeal is disposed of in terms of the signed order.

.SP1

(N.K. Goel)

Court Master

(H.K. Bhatia)

Court Master

(Signed order is placed on the file)