

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No.4102 of 2004 (O&M)

Date of decision: 04.03.2015

Abnash Chander Mahajan and others

... Petitioners

versus

Ravi Kumar Kalia and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. M.L. Sarin, Senior Advocate,
with Ms. Alka Sarin, Advocate,
for the petitioners.

Mr. Chetan Mittal, Senior Advocate,
with Mr. Kunal Mulwani, Advocate,
for the respondents.

K.Kannan, J. (Oral)

1. The decree-holder, who had secured the order of eviction filed an execution petition which was dismissed by the Executing Court citing the fact that the tenant has filed his own suit for specific performance and the benefits of Section 53-A of the Transfer of Property Act must be applied. There are proceedings pending before the Supreme Court both against the decree for ejectment with the decree-holder/petitioner has obtained and decree for suit for specific performance brought at the instance of the tenant. The Supreme Court has passed the orders of status quo as on the date of passing of the order. Admittedly, the status quo is

retention of possession by the person who was the tenant.

2. An execution petition cannot be prosecuted now in the light of the orders passed by the Supreme Court. I set aside the observations regarding the benefits of Section 53-A of the Transfer of Property Act as available at the execution stage. The Executing Court has already held that the decree-holder will be competent to file a fresh execution petition at any time if there is an executable decree by conclusion of proceedings by the Supreme Court.

3. There is an application for determining mesne profits filed under Order 15 Rule 5 CPC. The provision can be invoked only before a court where a decree for ejectment is pending. The petitioner is at liberty to approach the competent court of jurisdiction for any relief and it cannot be taken in the revision proceedings against the order of dismissal of execution petition.

4. With this liberty, the civil revision is disposed of.

(K.KANNAN)
JUDGE

04.03.2015
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