

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

129

CR-3253-2025 (O&M)

Date of decision: 27.05.2025

Surender Singh

...Petitioner(s)

Vs.

Amrit Sharma and another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Shakti Singh, Advocate
for the petitioner.

NIDHI GUPTA, J.

The present civil revision petition has been filed by the petitioner/plaintiff, under Article 227 of the Constitution of India praying for issuance of a direction to the Ld. District Judge, Faridabad to decide promptly and immediately the Appeal No.105 of 2023 titled as "*Surender Singh Vs. Amrit Sharma and another*" instituted on dated 20.10.2022 (Annexure P-3) challenging the Order dated 06.10.2022 (Annexure P-4); and the Interim Application under Order 39 Rule 1 & 2 read with Section 151 CPC for staying the operation of the impugned order dated 06.10.2022 is also pending before the Ld. District Judge, Faridabad, in the interest of justice.

2. Learned counsel for the petitioner submits that the short prayer of the petitioner herein is that direction be issued to the learned lower appellate Court to decide Appeal No. 105 of 2023 and the interim



application filed by the petitioner under Order 39 Rule 1 and 2 read with Section 151 CPC for staying operation of the impugned order dated 06.10.2022, expeditiously and in a time bound manner.

3. No other argument is made by counsel for the petitioner.

4. Heard learned counsel and perused the case file in great detail.

5. This Court is not inclined to grant prayer made by the petitioner in view of the following circumstances of the case: -

The petitioner had filed a suit for possession by way of specific performance of Agreement to Sell dated 08.01.2013. Vide judgment and decree dated 09.01.2017 (Annexure P-1), the above said suit of the petitioner was decreed for possession by way of specific performance of above said Agreement to Sell. Thereafter, petitioner had filed an Execution Petition No. 142 of 2017. In the said Execution Petition, respondent No.2 had filed 3rd party objections by alleging herself to be purchaser of the suit property. Vide order dated 06.10.2022 (Annexure P-2), third party objections filed by respondent No.2 were allowed; and the Execution Petition filed by the petitioner was dismissed.

6. The said order dated 06.10.2022 was challenged by the petitioner before the learned District Judge vide instant Appeal No. CA-105 of 2023 dated 20.10.2022. Along with the said appeal, petitioner had filed application under Order 39 Rules 1 and 2 read with Section 151 CPC., both of which are appended herein as Annexure P-3. In the



meantime, respondent No.2 had filed an Execution Petition No.394/2022 dated 15.11.2022 (Annexure P-4) for issuance of warrants of possession. In the said Execution Petition, the petitioner had filed objections dated nil (Annexure P-5) pointing out that the appeal of the petitioner against order dated 06.10.2022 is pending before the learned District Judge. Respondent No.2 had also filed reply dated nil (Annexure P-6) to the objections filed by the petitioner before the learned Executing Court.

7. It is the grievance of the petitioner that without considering the aforesaid factors and the pendency of the appeal of the petitioner, the learned Executing Court has issued warrants of possession in favour of respondent No.2. It has accordingly been prayed that the appeal filed by the petitioner against the order dated 6.10.2022, presently pending before the learned District Judge be directed to be decided expeditiously.

8. However, this Court is not inclined to grant the prayer made by the petitioner. On a Court query as to how the appeal filed on 20.10.2022 by the petitioner has not been concluded till date, Learned counsel for the petitioner has very candidly admitted that adjournments have been sought by the petitioner upto 03.05.2023 before the learned appellate Court. Further, a perusal of the zimni orders (Annexure P-7) from 03.05.2023 upto 15.04.2025 shows that matter has been repeatedly adjourned as notice could not be issued to respondent No.1 herein for want of correct address to be filed by the petitioner. In this



regard, opportunities have been granted to the petitioner since 09.08.2023 till 10.02.2025, on which date application was moved by the petitioner for service upon the respondent through munadi. Vide order dated 15.04.2025, learned Additional District and Sessions Judge, Faridabad had directed for issuance of fresh notice to respondent No.1 for service by way of Munadi subject to deposit of munadi fees, copy of appeal etc.

9. From the above facts, it is clear that there is no unwarranted delay being caused in the appeal on the part of learned Court below. Delay, if any, appears to have been caused by the petitioner for non-filing of the correct address of respondent No.1 despite grant of several opportunities from 09.08.2023 till 10.02.2025.

10. As such, no ground to issue direction to the learned District Judge, Faridabad to expedite hearing of the appeal, is made out. The present civil revision petition, accordingly, stands **dismissed**.

11. Pending application(s) if any also stand(s) disposed of.

27.05.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No