

(2012) 03 P&amp;H CK 0149

## High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 1882 of 2012

Amar Kaur and others

APPELLANT

Vs

Gurdev Kaur and others

RESPONDENT

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**Date of Decision:** March 26, 2012**Acts Referred:**

- Constitution of India, 1950 - Article 227

**Hon'ble Judges:** L.N. Mittal, J**Bench:** Single Bench**Advocate:** J.S. Maanipur, for the Appellant;

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**Judgement**

L.N. Mittal, J.

Plaintiffs Amar Kaur etc. have filed this revision petition under Article 227 of the Constitution of India seeking direction to the trial court i.e. Civil Judge (Junior Division), Rajpura to decide applications Annexures P/3 and P/4 moved by the plaintiffs in the trial court. I have heard learned counsel for the petitioners and perused the case file.

2. In the suit, petitioners have challenged order dated 6.11.2007 regarding redemption to mortgage passed by Collector under the Redemption of Mortgages (Punjab) Act, 1913, and have also sought permanent injunction. During pendency of the suit, the petitioners also filed Civil Writ Petition No. 260 of 2011 assailing order of issuance of warrant of possession by the Collector pursuant to aforesaid redemption order. This Court disposed of the said writ petition vide order dated 2.8.2011, Annexure P/1 observing that the petitioners cannot avail two remedies simultaneously i.e. of civil suit as well as of writ petition. The petitioners were given liberty to move application before the civil court within two weeks seeking appropriate order against issuance of warrant of possession by the Collector pursuant to the impugned redemption order and till then warrant of possession was stayed. Pursuant thereto, petitioners moved application, Annexure P/3 dated 17.8.2011 and another undated application, Annexure P/4 in the trial court inter alia

seeking stay of order of warrant of possession issued by the Collector pursuant to redemption order.

3. Grievance of the petitioners in the instant revision petition is that aforesaid applications Annexures P/3 and P/4 have not been disposed of by the trial court.

4. I have heard learned counsel for the petitioners and perused the case file.

5. Counsel for the petitioners contended that applications Annexures P/3 and P/4 moved by the petitioners pursuant to order Annexure P/1 passed by this Court have not yet been disposed of by the trial court and therefore, the trial court be directed to dispose of the said applications.

6. I have carefully considered the aforesaid contention. On the face of it, the contention appears to be meritorious but on proper perusal and scrutiny, the contention is found to be completely misconceived. Relief sought by the petitioners in applications Annexures P/3 and P/4 appears to since been declined by the trial court vide order dated 12.9.2011, Annexure P/6 whereby petitioners' application for temporary injunction restraining defendants/respondents during pendency of the suit from taking possession of the suit land forcibly or in any manner alienating the same and staying operation of redemption order dated 6.11.2007 passed by the Collector has been disposed of. Petitioners' prayer for staying operation of the redemption order has been declined although forcible dispossession of the petitioners from the suit land except in due course of law has been stayed during the pendency of the suit. In view of said order Annexure P/6 passed by the trial court, practically nothing survives for determination in applications Annexures P/3 and P/4.

7. Nevertheless the trial court is directed to formally dispose of applications Annexures P/3 and P/4 moved by the petitioners in accordance with law within two months from the date of receipt of certified copy of this order. Nothing observed in this order shall have any bearing on the merits of the said applications or on merits of the suit.