

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No.2332 of 2008
Date of decision:27.01.2015

Satwinder Singh

....Petitioner

Versus

Narinder Pal Kaur

.....Respondent

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr.Simranjeet Singh, Advocate, for the petitioner.

G.S.Sandhawalia J.(Oral)

Challenge in the present revision petition is to the order dated 24.01.2008 (Annexure P3), whereby the Executing Court has issued conditional warrant of the judgment debtor in an application filed under Order 21 Rule 41 CPC.

A perusal of the paperbook would go on to show that the decree holder filed the application for examination of the judgment debtor as to his property and means of satisfying the decree on the ground that he has yet to realise ₹1,10,000/- under the decree. The attachment of the movable property of photostat machine and computer set, value of which was not more than ₹20,000/- and therefore, the decree holder did not know the assets of the judgment debtor who owned huge movable and immovable property. The application was contested by the judgment debtor on the ground that the attachment was wrong and that he was not owner of any movable or immovable property and there was no need to direct the judgment debtor to be present in person. Affidavit in support of the reply was filed. Resultantly, the impugned order was passed.

A perusal of the provisions of Order 21 Rule 41 CPC would go on to show that the Executing Court has a power of making an order for attendance of

the judgment debtor and examination of such judgment debtor. However, in the present case, vide the impugned order, the conditional warrant has been issued on account of his non presence.

Accordingly, this Court is of the opinion that firstly, the judgment debtor should have been asked to be present in the Court, to satisfy itself by examining him as to whether what other property he had. In case the judgment debtor do not heed to the same, then the enforcement could have been done at a subsequent date. Thus, the conditional order passed was not justified. Accordingly, the order dated 24.01.2008 (Annexure P3) is set aside and the Executing Court is directed to proceed, in accordance with law.

Revision petition stands allowed, in the above said terms.

27.01.2015
sailesh

(G.S.SANDHAWALIA)
JUDGE