

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

**CR No.50 of 2015
Date of Decision: 04.03.2015**

New India Assurance Co. Ltd.

...Petitioner

Versus

***M/s Tushar Frieght Carrier A-1, Central Warehousing
Corporation***

...Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Vinod Gupta, Advocate for the petitioner.

SABINA, J.

Learned counsel for the petitioner has filed this petition challenging the order dated 07.08.2014.

Learned counsel for the petitioner has not challenged the part of the order dated 07.08.2014 whereby application under Order 21 Rule 11-A filed by the petitioner was dismissed and consequently impugned order to this extent is upheld.

Learned counsel for the petitioner has submitted that vide order dated 21.02.2014 petitioner was directed to furnish list of property of the judgment debtor subject to deposit of ₹400/- as costs. The case was adjourned to 05.07.2014. However, on the said date petitioner moved an application under Order 21 Rule 11-A of the Code of Civil Procedure, 1908, for arrest and detention of the judgment debtor on the ground that the petitioner was unable to trace out the particulars of the property owned by the judgment debtor. While

dismissing the said application the executing Court had also dismissed the execution application for want of prosecution, whereas an opportunity should have been allowed to the petitioner to submit the list of property of the judgment debtor. Petitioner was ready to deposit the costs.

Keeping in view the submissions made by learned counsel for the petitioner it would be just and expedient to grant one opportunity to the petitioner to enable him to produce the list of property of the judgment debtor along with affidavit of the decree holder.

Accordingly this petition is allowed and impugned order dated 7.08.2014 to the extent whereby execution application was ordered to be dismissed for want of prosecution is set aside. Consequently, the petitioner is granted one opportunity to enable him to place on record list of property of judgment debtor along with affidavit of the decree holder subject to payment of ₹10,000/- as costs. Costs be deposited with the District Legal Services Authority, Gurgaon.

March 04, 2015

Manoj Bhutani

**(SABINA)
JUDGE**