

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

**CR No.5807 of 2014 (O&M)
Date of decision: 14.09.2015**

Janak Raj ... Petitioner
Vs.

M/s Des Raj Chander Shekhar,
Commissioner Agents, Jalalabad & others
... Respondents

CR No.5817 of 2014 (O&M)

Janak Raj ... Petitioner
Vs.

Punjab State Power Corporation Ltd. & others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Sandeep Jasuja, Advocate
for the petitioner (in both cases).

Mr. Neeraj Madan, Advocate
for respondent No.1.

Mr. R.L. Sharma, Advocate
for respondent No.2 (in both cases).

AMIT RAWAL J. (Oral)

This order of mine shall dispose of two revision petitions
bearing Nos.5807 and 5817 of 2014.

Challenge in the present petitions is to the impugned

order dated 13.08.2014 (Annexure P-7), whereby, the application under Order 21 Rule 37 CPC, filed by the plaintiff/deGREE holder, has been allowed and conditional bailable warrants against the petitioner/judgment debtor has been issued.

Mr. Sandeep Jasuja, learned counsel appearing on behalf of the petitioner/judgment debtor submits that in pursuance to the attachment order issued on 31.08.2013, property belonging to the petitioner had been attached. Instead of resorting to the provisions of Order 21 Rule 66 CPC, the decree holder had moved an application aforementioned, i.e., under Order 21 Rule 37 CPC and even no show cause notice had been issued. In support of his aforesaid contention, he relied upon the ratio decidendi culled out by this Court in **Didar Singh @ Dara Singh vs. State Bank of India 2013(1) R.C.R.(Civil) 588.**

Mr. Neeraj Madan and Mr. R.L. Sharma, learned counsel appearing on behalf respondents No.1 and 2/deGREE holder submits that six effective opportunities were granted to the petitioner/judgment debtor to file objections and he was aware that a decree amounting to ₹ 3,11,410.46 along with interest had already been passed, but yet the judgment debtor did not honour the same and therefore, rightly so the application invoking the provisions of Order 21 Rule 37 CPC had been moved. He further submits that the property belonging to the judgment debtor had already been attached and there is no illegality and perversity in the impugned order.

I have heard learned counsel for the parties and appraised the paper book.

On perusal of the impugned order, it is manifest, that the trial Court has not exercised the powers as envisaged under Order 21 Rule 37 CPC, much less, proviso thereof. It is a matter of fact that in pursuance to the filing of execution application, attachment orders were issued, but instead of resorting to the provisions under Order 21 Rule 66 CPC, the application aforementioned had been moved. The trial Court had not issued any show cause notice, as per the ratio decidendi culled out in Didar Singh's case (supra). Even the proviso would not come to the rescue of the judgment debtor, for the reason, that on 11.08.2014, the application was filed under Order 21 Rule 37 CPC and in pursuance to that, judgment debtor had filed a reply.

In my view, the trial Court ought to have issued a show cause notice, calling upon the judgment debtor with regard to the payment of the decretal amount, failing which, judgment debtor is liable to be arrested, having not done so, I deem it appropriate to set aside the impugned order, by issuing direction to the trial Court to comply with the provisions under Order 21 Rule 37 CPC, in its letter and spirit and passed order thereon.

With the aforesaid directions, the revision petitions stand disposed of.

(AMIT RAWAL)
JUDGE

September 14, 2015
savita