

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No. 6711 of 2013

DATE OF DECISION : October 13, 2015

Vinod Kumar

..... PETITIONER(S)

VERSUS

Smt. Santosh & ors.

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE ARUN PALLI

**Present: Mr. G.C. Shahpuri, Advocate, for the petitioner.
Mr. S.K. Tripathi, Advocate, for respondents No.1 to 3.**

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1. Whether Reporters of local newspapers may be allowed to see the judgment? YES/NO

2. To be referred to the Reporter or not? YES/NO

3. Whether the judgment should be reported in the digest? YES/NO

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ARUN PALLI, J. (Oral)

Vide order being assailed, dated 28.10.2013, rendered by Additional District Judge, Gurgaon, arrest warrants against the petitioner-JD had since been issued.

This Court, on 11.11.2013, while issuing notice of motion, had passed the following order:-

the exparte award for an amount of ₹6,72,639/- was passed. Now respondents have filed execution application before the Execution Court and, therein, conditional warrants of arrest of the petitioner (Judgment Debtor) have been issued. He contends that conditional warrants could not be issued against the petitioner and his movable and immovable property should have been sold for realisation of the decretal amount. He also contends that the petitioner is ready to deposit ₹1,00,000/- before the Executing Court.

Notice to the respondents be issued for 09.12.2013.

Arrest of the petitioner shall remain stayed till further orders subject to deposit of ₹1,00,000/- by him before the Executing Court that be disbursed to the respondent (Decree Holder) in terms of the decree/award.”

Concededly, a sum of ₹1 lac, in terms of the aforesaid order, has since been deposited and disbursed to respondents No.1 to 3-DH.

Learned counsel for the petitioner submits that the executing court erred in law as before issuing warrants of arrest, it was incumbent upon the court to issue show cause notice to the petitioner-JD, in terms of the provisions of Order XXI Rule 37, Code of Civil Procedure. He submits that petitioner has been appearing before the executing court post passing of the order by this Court, dated 11.11.2013, and shall continue to appear. Concededly, the procedure envisaged under Order XXI Rule 37, Code of Civil Procedure, was not adhered to. And learned counsel for respondents No.1 to 3 does not dispute so.

That being so, the revision petition is accepted and the order dated 28.10.2013 is set aside. Needless to assert that executing court shall proceed strictly in accordance with law to execute the award dated 09.05.2012.

OCTOBER 13, 2015
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(ARUN PALLI)
JUDGE