

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

CR No.6714 of 2012

Date of decision: 07.09.2015

Gursewak

... Petitioner

Vs.

Dalvir Singh

... Respondent

CR No.1039 of 2013

Bhaghera Singh

... Petitioner

Vs.

Charanjit Kaur

... Respondent

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. Raman Mohinder Sharma, Advocate
for the petitioner (in both cases).

Mr. K.S.Chahal, Advocate
for the respondent .

AMIT RAWAL J. (Oral)

This order of mine shall dispose of two revision petitions,
bearing Nos.6714 of 2012 and 1039 of 2013.

Challenge in the present petition is to the impugned order
dated 08.10.2012, Annexure P-2, whereby, the executing Court has
issued bailable warrants against the petitioner/judgment debtor in
execution of the money decree.

Mr. Raman Mohinder, learned counsel appearing on behalf of the petitioner-judgment debtor submits that the executing Court has not complied with the provisions of Order 21 Rule 37 of CPC, much less, no show cause notice has been issued to the petitioner/judgment debtor. Therefore, the impugned order is vitiated in law and suffers from illegality and perversity.

Mr. Ashok Bhardwaj and Mr. K.S.Chahal, learned counsel appearing on behalf of the respondent/decreed holder submit that notice of the application for issuing bailable warrants against the petitioner/judgment debtor itself amounts to show cause notice, therefore, the Executing Court has rightly complied with the provisions contained in Order 21 Rule 37 of the CPC. There is no illegality, much less perversity in the impugned order and the same is liable to be sustained.

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

The provisions of Order 21 Rule 37 of the CPC provides that the Court shall instead of issuing a warrant of arrest of judgment debtor issue a show cause notice calling upon him to appear before the Court and to show cause why he should not be committed to the civil prison. The executing Court, in my view, has not complied with the aforementioned procedure. In order to lend support to the aforementioned finding, I rely upon the judgment of this Court in **Didar Singh @ Dara Singh vs. State Bank of India 2013(1) R.C.R.**

(Civil) 588.

In view of the aforesaid facts and circumstances the case, the impugned orders dated 08.10.2012 (Annexure P-2) in CR No.6714 of 2012 and 29.1.2013 (Annexure P-3) in CR No.1039 of 2013 passed by the executing Court, are set aside and the executing Court is directed to comply with the provisions contained in Order 21 Rule 37 of the CPC and pass a speaking order, as expeditiously as possible, preferably within a period of two months from the date of receipt of certified copy of this order.

In view of aforesaid observations, revision petitions are allowed.

(AMIT RAWAL)
JUDGE

September 07, 2015
savita