

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 7430 of 2015
Date of decision : November 6, 2015

Sulakhan Singh

..... Petitioner

Versus

M/s Indusland Bank Ltd.and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Arvind Singh, Advocate
for the petitioner.

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

Amit Rawal, J (oral).

Learned counsel for the petitioner contends that vide impugned order dated 17.10.2015 (Annexure P-6) the trial court had issued warrants of arrest against the petitioner and defendant No.2-judgment debtors by invoking the provisions of Order 21 Rule 37 CPC whereas no show cause notice as statutorily contemplated has been issued before issuing the warrant of arrest. The impugned order reads thus:-

“Learned counsel for the Jds No.1 and 2 sought date for making payment. However, despite giving sufficient time, JDs No.1 and 2 did not make payment, so, learned counsel for JDs No.1 and 2 is directed to produce JD No. 1 and 2 in person before

Court. At this stage, application for issuance of arrest warrant against JDs No.1 and 2 along with affidavit filed by DH Counsel. Heard. Since JDs No.1 and 2 did not comply with the award dated 12.4.2013 despite expiry of more than 2-1/2 years, therefore, they do not deserve any leniency from this Executing Court. Let conditional warrant or arrest against JD No.1 and 2 for compliance of award be issued for 7.11.2015.”

I am in agreement with the submission of learned counsel for the petitioner, as per provisions under Order 21 Rule 37 CPC envisage on an application received by the court seeking execution of the money decree, before issuing the warrant of arrest, the trial court was enjoined upon an obligation to issue a show cause notice, in case the judgment debtor does not pay the decretal amount. However, in the instant case, the court has not followed the procedure as envisaged under Order 21 Rule 37 CPC.

In support of his contentions, learned counsel for the petitioner has relied upon the judgment in **Didar Singh @ Dara Singh Vs. State Bank of India 2013 (1) CivCC 743**

Keeping in view the aforementioned facts, the impugned order is set aside. The trial court is directed to comply with the provisions of Order 21 Rule 37 CPC and decide the application in accordance with law within a period of one month from the date of receipt of certified copy of this order.

The impugned order is set aside. The warrant of

arrest is directed to be recalled.

The revision petition is accordingly allowed.

Copy of the order be given under the signatures of
Reader attached to the Bench.

(AMIT RAWAL)
JUDGE

November 6 , 2015
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