

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 8354 of 2014
Date of decision : December 2, 2015

Harbagh Singh

..... Petitioner

Versus

Mahindra & Mahindra Finance Ltd.and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ajit Sihag, Advocate
for the petitioner.

Mr. Nitin Thatai, Advocate
for the respondents.

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).

The challenge in the present petition is to the impugned order dated 18.11.2014 passed by the Additional District Judge, Hisar.

I have gone through the impugned order which conforms to the satisfaction recorded under Order 21 Rule 37 CPC. The impugned order reads thus:-

“Reply filed by JD. I have heard counsel for the parties on the application filed by counsel for

DH/petitioner for sending the JD No.2 to the civil imprisonment. It has been specifically mentioned that JD No.2 is having sufficient means for satisfying the amount but he is intentionally avoiding the payment. It is very much necessary to mention here that this Court vide order dated 27.10.2014 on the request of counsel for JD No.2 given adjournment on the assurance that tractor would be produced before the court along with JD. JD is playing hide and seek game with the court. Earlier his presence was procured through warrant of arrest but now he again has not appeared before the court without any explanation. The averments of the application filed under order 21 rule 37 CPC read with section 151 of CPC are further fortified by affidavit to the effect that by no other mode decree could be executed against JD No. 2 except by sending him to civil imprisonment.

On behalf of JD No.2 averments of plaint have been simply denied and at para No.4 it was submitted that JD No.2 assisted the officials of petitioners in attaching and taking into possession the tractor of JD No.1 but if this assistance of JD No.2 for the sake of arguments considered to be true it does not exonerate him from the liability of payment of the award amount. I am satisfied that JD No.2 is having no sufficient means for satisfying the amount of award but he is not making payment of the same intentionally. Hence, application filed under order 21 rule 37 CPC filed by petitioner is allowed and it is ordered that conditional warrant in the sum of Rs.3,50,000/- be issued against JD and be procured through special messenger returnable for 2.12.2014.”

In view of the facts narrated above, I do not find any illegality and perversity in the impugned order. The order cannot be said to have been passed without jurisdiction.

There is no merit in the revision petition. Accordingly the revision petition is dismissed.

(AMIT RAWAL)
JUDGE

December 2, 2015
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