

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-1305-2016 (O&M)

Date of Decision:-23.02.2016

Harvinder Singh

...Petitioner

Versus

Bhoj Raj and others

...Respondents

CORAM: HON'BLE MR.JUSTICE SHEKHER DHAWAN

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?

Present:- Mr. Anish Garg, Advocate,
for petitioner.

SHEKHER DHAWAN, J.

Present revision petition under Article 227 of the Constitution of India for setting aside the order dated 06.01.2016 passed by Addl. Civil Judge (Senior Division), Talwandi Sabo whereby application under Order 21 Rule 37 CPC in execution proceedings was allowed and it was ordered that JD be given one opportunity to make the payment by 09.02.2016 failing which he shall be sent to civil imprisonment.

Learned counsel for petitioner submitted that the Court below has not gone into the aspect whether the decree should be satisfied by any other process because sending a JD to civil imprisonment is the last resort.

Having considered the submissions made by learned counsel for the petitioner, this Court is of the considered view that at the time of passing of order dated 06.01.2016, Court below has not considered the relevant provisions envisaged under Order 21 Rule 40 CPC i.e. holding of

inquiry and giving an opportunity to the JD to make payment or to lead any evidence that he is not having any means to satisfy the decree. As such order dated 06.01.2016 is hereby set aside and the Court below is directed to proceed further as per provisions of Order 21 Rule 37 along with Order 21 Rule 40 of CPC.

Petition stands allowed in the above terms.

February 23, 2016

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(SHEKHER DHAWAN)
JUDGE