

**THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No. 1679 of 2014 (O&M)

Date of decision: February 2, 2016

Kuldeep Singh

...Petitioner

Versus

Gurmail Singh

...Respondent

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

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. Arun Abrol, Advocate,
for the petitioner.

Mr. Prabhjot Kaur, Advocate,
for the respondent.

K. KANNAN, J. (Oral)

1. The revision petition is against the order of the executing court directing arrest of the judgment debtor and declining to entertain a plea of the judgment-debtor that he should be permitted to pay the decretal amount in installment at the rate of Rs. 30,000/- half yearly. As regards the latter request of the judgment debtor that he should be permitted to pay the amounts in installment, unless the decree-holder consents for such a course, there is no power with the executing court to order payment in installments in the light of the provision Order 21 Rule 11 of the Civil Procedure Code. The Court's power extends only to a situation of payment of installment before a decree is passed and once a decree is passed, the direction for payment in installment must follow the decree holder's consent. If such a consent is not given, the judgment debtor cannot force

his own convenience as coming through the Court's diktat.

2. As regards the plea for arrest, the decree appears to have been passed in the year 1996 and at the time when the revision was taken on board by this Court, while issuing notice, it had allowed for deposit of half of the decretal amount within two weeks. I am informed that the judgment debtor was able to fend off the order of arrest by making the deposit. The decree-holder would affirm that the judgment debtor has 15 acres of land and he has also enough resources as commission agent. If the contention of the judgment debtor is that he has no resources, the Court shall be bound to secure the presence of the judgment debtor and allow for evidence to be given by both the parties on the means as affirmed by the decree-holder and which is denied by the judgment debtor. The court may take such evidence at it may deem necessary and what evidence the parties willing to offer in court and pass a fresh order thereon. Needless to say that the adjudication will be summary and will not be detained by long drawn procedure of drafting issues and allowing for voluminous evidence to be brought and letting the matter spill out to several dates of hearing.

3. The order already passed is modified and the matter is remitted to the executing court for examination on means of the judgment debtor and arrest or otherwise will follow the outcome of such adjudication.

February 2, 2016
prem

(K.KANNAN)
JUDGE