

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

CR No. 6397 of 2016 (O&M)

Date of Decision: 26.09.2016

M/s Lakshmi Narain & Sons and another

----Petitioner

Versus

Baij Nath and another

----Respondents

Coram: Hon'ble Mr. Justice Amol Rattan Singh

Present: Mr. Achin Gupta, Advocate.

AMOL RATTAN SINGH, J.

Learned counsel for the petitioners submits that the Executing Court wholly erred in allowing the application under Order 21 Rule 37 CPC, wherein it is stipulated that a show cause notice must be given to a Judgment Debtor even upon an application made by the Decree Holder for execution of the decree by arrest of the Judgment Debtor.

The proviso to the aforesaid provision also stipulates that if the Court is satisfied that Judgment Debtor is likely to abscond or leave the local limits of the jurisdiction of the Court, the notice can be dispensed with. However, learned counsel points out that the order of the learned Executing Court dated 26.08.2016 does not anywhere mention that there is any apprehension of the petitioners to abscond.

Having considered the aforesaid submission, it is directed that petitioner No.2 shall appear in person before the Executing Court on 30.09.2016, which will be deemed to be his appearance before that Court pursuant to a notice issued in terms of Order 21 Rule 37 (1) CPC.

It is made clear that if the petitioner does not appear before the learned Executing Court on 30.09.2016 and this order is not complied with, then the warrant of arrest shall be executed.

Upon appearance before the learned Executing Court on the aforesaid date, the Court would thereafter proceed in terms of Order 21 Rule 37.

This petition stands disposed of with the aforesaid direction.

(AMOL RATTAN SINGH)
JUDGE

26.09.2016

Atul

Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No