

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

**CR No.5180 of 2017
Date of Decision: 14.09.2017**

Ankur

.....Petitioner

Vs

Heera Lal

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Navdeep Monga, Advocate
for the petitioner.

Mr. Rajbir Singh, Advocate
for the respondent.

RAJ MOHAN SINGH, J.(Oral)

[1]. On 08.08.2017, following order was passed:-

“Learned counsel for the petitioner contends that on 24.4.2017, case was adjourned to 5.5.2017 for arguments on the application under Order 21 Rule 37 CPC as well as on objections. On 5.5.2017, case was adjourned to 20.7.2017. In the absence of any prayer for preponement of the date, the Additional Civil Judge (Sr.Divn.) Mansa took up the case on 19.5.2017 and adjourned it for 30.5.2017. On 30.5.2017, presence of Mr.N.K.Sharma, Advocate, learned counsel for judgment debtor, was wrongly recorded despite the fact that he was not present in the Court. Thereafter, non bailable warrants were issued against the judgment debtor for 1.7.2017.

Notice of motion for 14.9.2017.

Till the next date of hearing, warrants of arrest issued by the Executing Court shall not be executed. A report from the Executing Court be also sought in the context of preponing the date from 20.7.2017 to 30.5.2017 in the absence of any application for the same. Petitioner may also file affidavit of Sh.N.K.Sharma, Advocate in the context of his presence wrongly recorded in the order dated 30.5.2017.

Let photocopy of the zimni orders passed by the trial Court be also requisitioned.”

[2]. A report from the Executing Court has been received, wherein it has been stated that on 21.04.2015, decree holder moved an application under Order 21 Rule 37 CPC mentioning the fact that the judgment debtor is running the business of insecticides and pesticides and has also displaced articles in order to defeat the rights of the decree holder. Reply to the application was filed by the judgment debtor on 20.05.2015. Thereafter, the case remained pending for consideration till 05.05.2017. The case was adjourned to 20.05.2017, somehow in the order, it was shown to have been adjourned to 20.07.2017. The cause list taken from CIS system is also attached with the report wherein the case was shown to have been adjourned to 20.05.2017.

[3]. Petitioner has assailed the orders dated 19.05.2017,

30.05.2017, 31.05.2017 and 01.07.2017 passed by the Additional Civil Judge (Senior Division), Mansa which have originated from the wrong fixation of date as per order dated 05.05.2017.

[4]. Apparently, aforesaid orders have been passed by the Executing Court on the basis of preponement of the date from 20.07.2017 to 20.05.2017. Since Additional Civil Judge (Senior Division), Mansa was on leave on 20.05.2017, therefore the case was taken up on 19.05.2017 and the same was adjourned to 30.05.2017. Though the presence of one Sh. N.K. Sharma, Advocate was recorded on behalf of the judgment debtor in the order dated 30.05.2017, but the learned counsel for the petitioner states that no such Advocate was present in the Court on the said date i.e. 30.05.2017.

[5]. Be that as it may, since typographical error in the order was the cause which has resulted in passing of subsequent orders, therefore, in view of aforesaid, I deem it appropriate to annul the effect of orders Annexures P6 to P9 with a direction to the Executing Court to proceed afresh from the stage as it existed on 05.05.2017.

[6]. Disposed of accordingly.

September 14, 2017.

Prince

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No