

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-8029-2016 (O&M)

Date of Decision:- 14.09.2017

M/s Shree Innovation and others

.....Petitioners

Versus

Lajwanti Devi and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. N.C. Kinra, Advocate, for the petitioners.

Mr. Arnav K. Sood, Advocate, for the respondents.

RITU BAHRI, J. (Oral)

Present revision petition under Article 227 of the Constitution of India for setting aside the order dated 21.11.2016, passed by learned Additional Civil Judge (Sr. Divn.), Panchkula, whereby the warrants of arrest has been issued against the judgment debtors/petitioners without deciding their objections (Annexure P-5).

In the reply/objections (Annexure P-5) in paragraph 9(vi) the petitioners have given the details of the amount, which were lying as security with the decree holders and had to be adjusted against the entire decretal amount.

Reliance, at this stage, can be made to the provisions of Section 51, Order 21 Rules 37 and 40 of CPC, which lays down that

where the decree is for payment of money, execution by detention in prison, shall not be ordered unless, after giving notice the judgment-debtor an opportunity of showing cause why he should not be committed to prison.

In the present case, since the trial Court without deciding the reply/objections (Annexure P-5) has straight way passed the order of warrants of arrest, which is against the above-said provisions of the CPC, therefore, order dated 21.11.2016, passed by the learned Additional Civil Judge (Sr. Divn.), Panchkula, without specifying the period for detention, is hereby set aside and the trial Court is directed to pass a fresh order after deciding the reply/objections (Annexures P-5), filed by the petitioners, expeditiously.

September 14, 2017
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No