

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.1588 of 2017 (O&M)
Date of Order:17.05.2018

M/s Iqbal Batteries and another

..Petitioners

Versus

M/s Bridgestone India Pvt. Ltd.

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Keshav Partap Singh, Advocate,
for the petitioners.

Mr. M.P.Upadhayay, Advocate,
for the respondent.

ANIL KSHETARPAL, J(Oral)

Judgment Debtors are in the revision petition against an order passed by the learned trial court sentencing petitioner no.1-JD to undergo civil imprisonment for a period of one month.

A bare look at the previous orders passed by the Executing Court, it is apparent that vide order dated 27.07.2016, JD was directed to come present in person. The case was adjourned to 30.08.2016. On 30.08.2016, JD appeared in person, reply to the application under Order 21 rule 42 of the Code of Civil Procedure was not filed. JD was directed to file the affidavits stating the particulars of the assets of JD on or before the next date. However, on the next date, JD could not appear in person and Court passed the impugned order. The order passed by the trial court on 28.09.2016 is extracted as under:-

“Case called several times since morning at different

intervals. But none appeared on behalf of the JD. On the last date of hearing, JD was required to come present and file an affidavit stating the particulars of her assets. Since, the JD has failed to comply with the orders passed on the last date of hearing, no explanation whatsoever for this non compliance is forthcoming, it must be held that non compliance is willful and intentional. Consequently, invoking the provisions of Order 21 Rule 41(3) CPC, JD is hereby sentenced to undergo civil imprisonment for one month. To secure the presence of JD to undergo such sentence, non-bailable warrants of arrest of JD be now issued for 19.11.2016.”

Operation of the order was stayed in this revision petition.

Learned counsel for the petitioners has brought to the notice of the Court that the affidavit as required has already been filed before the Court on 11.01.2017 disclosing the assets.

Keeping in view the aforesaid fact, the order under Challenge is set aside.

The revision petition is allowed.

The Executing Court is directed to proceed with the execution petition in accordance with law.

May 17, 2018
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No