

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

(111)

CR No.2010 of 2018

Date of Decision:27.03.2018

Sardool Singh

.....Petitioner

Vs.

Rai Singh

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Jaswant Jain, Advocate for the petitioner.

RAMENDRA JAIN, J. (Oral)

Through the instant petition filed under Article 227 of the Constitution of India, the prayer has been made for setting aside the orders dated 21.02.2018 and 09.03.2018 (Annexures P.2 and P.3) of the executing Court whereby warrant of arrest has been ordered to be issued against the petitioner.

Learned counsel for the petitioner inter-alia contends that as soon as the petitioner came to know about the ex parte judgment and decree dated 21.04.2014 against him, he immediately moved an application under Order 9 Rule 13 CPC for setting aside of the same which is still pending adjudication and is fixed for 19.04.2018 for evidence of the respondent-plaintiff. The executing court has failed to appreciate the fact of pendency of the aforesaid application of the petitioner at the time of issuance of warrant of arrest of the petitioner.

Considering overall facts and circumstances, in the interest of justice and fitness of things, it is desirable that the petitioner should deposit the decretal amount along with upto date interest ordered to be paid by him

by the trial Court vide judgment and decree dated 21.04.2014 before the executing Court which shall be converted in the shape of STBR fetching maximum rate of interest in some nationalised Bank in the name of the Court to save loss of interest to any of the parties, who shall finally be entitled for the same after decision upon the application of the petitioner under Order 9 Rule 13 CPC within four weeks from today.

In case, the petitioner deposits the entire decretal amount along with interest as ordered above, the executing Court would adjourn the execution petition sine die till the decision upon the application of the petitioner under Order 9 Rule 13 CPC.

It is clarified that in case the petitioner would fail to comply with this order within the stipulated time, in that eventuality, this petition shall be deemed to have outrightly been dismissed and the executing court would proceed further with the execution petition. The execution proceedings shall remain stayed till 26.04.2018.

This order has been passed without issuing notice to the respondent- defendant with a view to impart justice expeditiously to the parties and to save the huge expenses which may be incurred by him and also to avoid unnecessary delay in the adjudication of the matter. Still, if dissatisfied, the respondent may move this Court for recalling this order within a period of six weeks from today.

March 27, 2018
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(RAMENDRA JAIN)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No