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

**CR No. 2742 of 2018(O&M)
Date of Decision: 30.08.2018**

M/s Buta Ram and another**.....Petitioners****Vs****Piara Singh****....Respondent****CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present: Mr. P.L.Singla, Advocate
for the petitioners.

Mr. Jaswinder Singh, Advocate for
Mr. Arvind Vikramjit Singh, Advocate
for the respondent.

RAJ MOHAN SINGH, J. (ORAL)

Petitioners have challenged the order dated 11.04.2018 passed by the Civil Judge (Junior Division) Jagraon, vide which the application under Order 21 Rule 37 CPC filed by the respondent/ Decree Holder was allowed and conditional warrants of arrest of the petitioners/Judgment Debtors have been ordered to be issued in execution of money decree.

Material on record would show that the petitioner-Buta Ram was Judgment Debtor in a suit for recovery. The suit was decreed vide judgment and decree dated 01.12.2007. In execution of the said decree the list of properties as per requirement of law was filed, whereby the Judgment Debtor was found to be owner of about 3 marlas of land and the same was attached under Order 21 Rule 66 CPC. The said property was ultimately found to be in *abadi*, therefore, revenue officer could not subject

the same to auction. The execution was filed for recovery of decretal amount of Rs. 5,24,884/- with interest.

Learned counsel for the petitioners submitted that petitioner-Buta Ram has no means to pay decretal amount except the aforesaid land in his ownership qua which preliminary decree has already been passed in a suit for partition. No final decree has been drawn till date. It has been informed by the learned counsel that passing of final order was refused and the appeal is pending.

I have considered the submissions made by learned counsel for the parties.

There is no impediment in selling the share out of joint land by the Judgment Debtor. Since the land has already been attached, the Executing court would subject the attached land to sale in accordance with law. Invoking the provision in terms of Order 21 Rule 37 CPC can only be done in case the procedure prescribed in Order 21 Rule 66 CPC is exhausted. Since the land has already been attached, the Executing Court shall proceed to act in accordance with law, if the decree is not satisfied even after the sale of about 3 Marlas of land owned by the Judgment Debtor-Buta Ram, in such eventuality, the Court will pass appropriate order in the context of impugned proceedings.

With the aforesaid observations, this petition is disposed of.

30th August, 2018

shabha

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No