

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

CR No.3863 of 2018 (O&M)
Date of decision : 01.06.2018

M/s SMT Spinners (P) Ltd. and others

...Petitioners

Versus

The Himachal Pradesh State Industrial Development Corporation Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.S. Thind, Advocate and
Ms. Rupinder K. Thind, Advocate for the petitioners.

ANIL KSHETARPAL, J. (ORAL)

The Judgment-Debtors are in the revision petition against the order passed by the learned Executing Court dated 14.02.2018 issuing show cause notice under Order 21 Rule 41 CPC directing the Judgment Debtors to appear in person in the Court on the next date of hearing and disclose the fact that how they would make the payment of the decretal amount. The order further provides that they should also show cause why they should not be sent to Civil Imprisonment for willful default to clear the decretal amount.

Learned counsel for the petitioners has raised two fold arguments:-

(i) That there was no application under Order 21 Rule 41 CPC. She

submitted that in the absence of any application under Order 21 Rule 41 CPC, show cause notice could not be issued.

- (ii) She further submitted that show cause notice could not be issued to a lady i.e. petitioner No.3 as she is not liable to be arrested in the execution of the Civil Court decree.

This Court has considered the submissions. The Decree Holder which is a Public Sector Undertaking filed an application under Order 21 Rule 37 CPC to issue show cause notice to the Judgments Debtors why they should not be sent in civil prison. However, learned Court held that without issuance of show cause notice and without giving opportunity to the Judgment Debtors, to explain as to how they want to repay the decretal amount, neither show cause notice for detention in prison can be issued nor the order of detention can be passed. Order 21 Rule 41 CPC does not envisage any separate application. Order 21 Rule 41 CPC only provides for the examination of the Judgment-Debtor in the Court as to his property. This is what has been ordered by the Court.

The second argument of the learned counsel is that show cause notice as issued by the Court could not be issued against a lady-Judgment Debtor. In the present case, no order of arrest or detention has been passed. Only examination of the Judgment Debtor has been ordered to know the details of the property owned by him or her and the manner in which he or she would pay the amount. Learned counsel could not draw attention of the Court to any provision which debars a female to be summoned and examined in Court in terms of provisions of Order 21 Rule 41 CPC.

In the considered opinion of this Court, there is no bar in

issuing show cause notice for appearance and examination of the Judgment Debtor, even if one of the Judgment Debtor is a female.

In view thereof, there is no ground to interfere.

Revision petition is dismissed.

01.06.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No