

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

CR-8908 of 2018(O&M)

Date of Decision: 20.12.2018

Gurpreet Singh

....Petitioner

Versus

Manjit Singh

....Respondent

CORAM:HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. K. R. Dhawan, Advocate
for the petitioner.

AMOL RATTAN SINGH, J.(Oral)

Pursuant to the order dated 15.12.2018, a report of the learned Executing Court, i.e. the Addl. Civil Judge, Sr. Divn., Zira (through learned District and Sessions Judge Ferozepur), has been received, effectively stating therein that the petitioner, i.e. the judgment debtor Gurpreet Singh, came present before that Court on 17.12.2018.

A perusal of the impugned order shows that the petitioner was neither paying the decretal amount nor was appearing before the Execution Court, due to which warrants for his arrest were ordered to be issued by that Court.

As already noticed in the previous order passed by this Court, counsel for the petitioner had contended that the property of the petitioner already having been attached, there was no cause for issuing warrants for his arrest.

Today, he further points to the fact even the application filed by the respondent-decree holder was one under Order 21 Rule 66 of the CPC (copy annexure P-2), seeking execution of the decree for recovery of Rs.2,17,710-00/-, by attachment of the landed property of the petitioner-JD (in case he refused to otherwise pay the aforesaid amount).

Learned counsel for the petitioner has also relied upon a judgment in Janak Raj Vs. M/s Sardari Mal Des Raj, Commission Agents and others 2018(3) R.C.R. (Civil) 970, to submit that if an application under Rule 66 has been filed and property already stands attached, there would be no reason to issue warrants of arrest by taking recourse to Order 21 Rule 37.

The ratio of the aforesaid judgment obviously is to be respectfully followed by this Court, but with the observation that warrants of arrest were issued vide the impugned order on account of the petitioner not responding to notices and summons issued to him after the execution application had been filed, and therefore simply to secure his presence at the first instance the warrants were necessary to be executed. However, the respondent in fact having filed an application under Order 21 Rule 66 as aforesaid, this petition is disposed of with a direction that the Execution Court would proceed as per law, in terms of the aforesaid application and the statutory provision that the decree-holder seeks to invoke.

Of course it is made clear that in case the petitioner does not answer summons again by the Execution Court, requiring him to

be personally present, that Court would naturally be at liberty to issue appropriate warrants to ensure that his presence is secured.

In view of the above, with the petitioner now having already appeared before the trial Court on 17.12.2018, the impugned order is set aside subject to the petitioner continuing to appear before the Execution Court as and when summoned by it.

[AMOL RATTAN SINGH]
JUDGE

December 20, 2018
rashmi/nitin

Whether speaking/reasoned	yes/no
Whether reportable?	yes/no