

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**W.P.(227) No. 911 of 2019**

Ashish Mishra, S.N. Mishra, Aged About 49 Years, R/o. 481, Ward No.41, Behind Lucky Bharat Garage, Yadav Gali, Chuchuhiyapara, Shankar Nagar, Bilaspur, District Bilaspur, Chhattisgarh.

**---- Petitioner**

***Versus***

Pradeep Agrawal, S/o. Late Satyanaran Agrawal, R/o. Flat No.304, 3<sup>rd</sup> Floor, Mahima Vihar, Bilaspur, District Bilaspur, Chhattisgarh.

**-----Respondent**

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For Petitioner

: Mr. N.K. Chatterjee, Advocate

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**Order On Board**

**29/11/2019**

1. This petition has been brought being aggrieved by the order dated 01.1.2019, passed by the Court of Sixth Additional District Judge, Bilaspur (C.G.) in the Execution Case No.55-B/2015.
2. The petitioner filed an application praying for sending the judgment debtor to civil jail for realization of the decretal amount. The Execution Court has mentioned in the impugned order, that there is no such report that the judgment debtor has no property to be attached on the attachment warrant issued by the Court, therefore, the application was rejected.
3. It is submitted that the petitioner himself had made submission before the Court that the judgment debtor has not property to be attached for the realization of the decretal amount, which has been disbelieved by

the trial Court. Hence, appropriate order be passed.

4. On perusal of the copy of the order sheet of the execution proceeding filed along with the petition, it is found that the attachment warrant has been issued for the recovery of the decretal amount from the judgment debtor but the order sheet do not mention of any such warrant with such report that judgment debtor is not in possession of any property to be attached. Therefore, I am of this view that the learned Execution Court should have kept the application for sending the judgment debtor to civil jail, pending and called for report on the attachment warrant before passing any order on this application. Therefore, I feel inclined to dispose off this petition at motion stage. The impugned order dated 01.11.2019 is set-aside and the execution Court is directed to call a report on the warrant of execution issued against the judgment debtor before passing any order on the application filed by the petitioner for sending the judgment debtor to civil jail.
5. Accordingly, the petition is disposed off.

**Sd/-**

**(Rajendra Chandra Singh Samant)**  
Judge