

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 950 of 2019

- Rajendra Kumar Mahule, S/o Pannalal Mahule, Aged About 55 Years, R/o Kolka Para Infront of Shala No. 03, Dongargarh, District-Rajnandgaon, Chhattisgarh.

---- Petitioner

Versus

- Virendra Agrawal, S/o Late Harishankar Agrawal, Aged About 55 Years, R/o Patel Ward No. 15, Dongargarh, District-Rajnandgaon, Chhattisgarh.

---- Respondent

For petitioner	:	Mr. A.D. Kuldeep, Advocate.
For respondent	:	None.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

10/12/2019

1. The petition has been brought being aggrieved by the order dated 19.11.2019 (Annexure P-1) passed by the learned District Judge, Dongargarh, District-Rajnandgaon, Chhattisgarh in Execution Case No. 02/2019.
2. It is submitted that the petitioner had filed an application praying for payment of the decree money in installments, which has not been given proper consideration and rejected by the learned Execution Court. Hence, this petition.
3. On perusal of the impugned order, it is found that the reasons mentioned for rejection of the application are these, that the decree does not mention about payment of decreetal money in installments and neither the petitioner/judgment-debtor has filed any appeal to seek direction for payment in installments from the appellate Court and the application has been rejected on these grounds.
4. Although there is no specific provision under the Code of Civil

Procedure to allow the judgment-debtor to make payment in installments, but the Section 51 of CPC provides in clause-(e) that the Court may order execution of a decree in such other manner as the nature of the relief granted may require, therefore, this provision leaves it to the discretion of Court to consider and make use of other manner for execution of decree. Any exercise of power under this clause can be made with the help of inherent powers, which can be exercised by Civil Court of Section 151 of CPC. In this particular case, the learned Execution Court had to consider on the fact situation present with the judgment-debtor, who is the petitioner here, whether he has the capability of making whole of the payment in one stroke or not and if the petitioner is willing to make payment in installments then his prayer on this ground may have been considered in view of the provision which are mentioned hereinabove. Therefore, I am of this view that the application filed by the petitioner has not been correctly decided.

5. Accordingly, the petition is disposed off at the motion stage. The impugned order is set aside and the learned Execution Court is directed to reconsider on the application of the petitioner and pass orders in accordance with law.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha