

In the High Court of Punjab and Haryana at Chandigarh

248

CR No.4475 of 2018

Date of decision:12.9.2019

M/S SHANTANU INDUSTRIES AND ANR

.....petitioners

Versus

M/S MAHADEV INDUSTRIES

.....respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.A.K.Sama, Advocate,
for the petitioners.

Mr.Lokesh Vohra, Advocate
for the respondent.

RAJ MOHAN SINGH, J.(oral)

Petitioners are judgment debtors against whom a decree for recovery of quantified amount along with interest was passed by the trial Court vide judgement and decree dated 18.11.2014. Interest @ 9% per annum was awarded from the date of filing of the suit till final realisation of the amount. Amount was quantified as Rs.7,09,428.75 paise. In the execution filed by the decree-holder, mode of execution was pleaded by way of attachment of movable and immovable properties and sale thereof for recovery of decretal amount along with interest.

Perusal of the record in terms of orders dated

12.5.2017, 12.7.2017, 16.10.2017 and 16.12.2017 passed by the Executing Court would show that the judgment debtors were proceeded against ex parte. The decree holder could not provide the list of properties nor he could furnish warrant fee. Thereafter, an application under Order 21 Rule 37 CPC was filed by the decree holder on which impugned order dated 19.12.2017 was passed for arrest and detention of petitioner No.2 in civil imprisonment by way of conditional warrants.

The grievance of the petitioners is that once the mode of execution provides for attachment of the movable and immovable properties of the judgment debtors, the arrest should be made as a last resort. Order 21, Rule 41 CPC can be resorted to by way of directing the judgment debtor to provide details of his properties.

During the course of arguments, learned counsel for the petitioners very candidly admitted that the petitioners are ready to furnish the details of their properties before the Executing Court and the rigor of exercise under Order 21 Rule 41 CPC can be avoided. He undertakes on behalf of the petitioners to do the needful within two weeks from today before the Executing Court. In the event of doing so, the Executing Court can proceed to execute the decree by way of attachment and sale of the properties, so submitted by the judgment debtors. Thereafter, the Executing Court shall proceed to pass

lawful order on the basis of material before it.

In view of above, impugned order dated 19.12.2017 is set aside and the revision petition is disposed of accordingly.

September 12, 2019 anita	(RAJ MOHAN SINGH) JUDGE
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Whether reasoned/Speaking	Yes/No
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<i>Whether reportable</i>	<i>Yes/No</i>
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