

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

Sr. No.119

CR-3460-2019

Date of decision: 25.07.2019

Puran Singh

....Petitioner

versus

Nahar Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. P.K.S. Phoolka, Advocate
for the petitioner.

* * *

DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 26.03.2019 passed by the Civil Judge (Junior Division), Bathinda (for short – the Executing Court) through which the petitioner/judgment debtor has been directed to appear before the Executing Court for conducting of an enquiry under Order 21 Rule 40 CPC for determining whether he had the means to pay the decretal amount failing which his conditional warrants of arrest be issued.

After hearing learned counsel for the petitioner and perusal of the record of the case, the relevant facts which have emerged are that on issuance of conditional warrants, the petitioner appeared before the Executing Court on 13.10.2017 and stated that he was ready to make part payment of the decretal amount to the decree holder and requested the Executing Court for permitting him to make the balance payment in installments. However, on the next date, instead of making the part payment, he submitted that he did not have sufficient means to pay the

decretal amount. The Executing Court informed him that he could apply to be declared as insolvent but without there being any order declaring him to be insolvent, the Executing Court would proceed to recover the decretal amount from him in accordance with law. Accordingly, through the order impugned in the present proceedings, the Executing Court adjourned the matter for conducting of an enquiry under Order 21 Rule 40 CPC to find out whether the petitioner had the means to pay the decretal amount failing which his conditional warrants were ordered to be issued.

In the above facts, which speak for themselves, no fault is found in the procedure adopted by the Executing Court.

Even otherwise, on July 18, 2019, when the matter came up for hearing before this Court, learned counsel for the petitioner had prayed for and was granted time to seek instructions with regard to the mode and manner in which the petitioner would pay the decretal amount to the respondent. After receiving instructions, he submits that the petitioner does not have means to pay the decretal amount.

Dismissed.

(DEEPAK SIBAL)
JUDGE

July 25, 2019
Jyoti 1

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No