

117 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.6237 of 2019

Date of Decision:30.09.2019

OM PARKASH

...Petitioner

Versus

KANTA RANI

..Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Surinder Mohan Sharma, Advocate
for the petitioner.

DEEPAK SIBAL, J. (ORAL)

Through decree dated 26.11.2015, passed by the Additional Civil Judge (Senior Division), Rajpura the respondent was held entitled to recover from the petitioner an amount of ₹1,30,600/- along with interest @ 6% per annum from July, 2015 till realization. Such decree attained finality. However, when the petitioner failed to pay the decretal amount, the respondent filed an application before the Executing Court in which the petitioner remained unserved. Thereafter, the respondent filed an application under Order 21 Rules 37/38 CPC for issuance of conditional warrants of arrest against the petitioner. Though the petitioner was not served, the Executing Court issued conditional warrants of arrest of the petitioner.

Learned counsel for the petitioner submits that the conditional warrants have not been served on the petitioner but he came to know of the

same when some police personnel visited his house at the time when he was not present there. It is further submitted that the next date before the Executing Court is 03.10.2019, on which date, in view of the procedure prescribed under Order 21 Rule 37 CPC, the petitioner is willing to appear before the Executing Court to show cause as to why he may not be committed to civil imprisonment.

In view of the above, in terms of the procedure provided under Order 21 Rule 37 CPC, the petitioner is permitted to appear before the Executing Court on 03.10.2019 to show cause as to why, for not satisfying the aforesaid decree passed against him, he may not be committed to civil imprisonment. On 03.10.2019, after considering the petitioner's explanation, if any, the Executing Court shall pass appropriate orders in accordance with law.

To enable him to appear before the Executing Court, the petitioner shall not be arrested till 03.10.2019. However, in case, the petitioner fails to appear before the Executing Court on 03.10.2019 inference shall be drawn against him that he has nothing to say as to why he may not be committed to civil imprisonment and appropriate orders for his arrest shall then be passed by the Executing Court in accordance with law.

The present petition is disposed of in the above terms.

If the respondent is aggrieved by passing of this order, she shall be at liberty to approach this Court by moving an appropriate application.

(DEEPAK SIBAL)

September 30, 2019

JUDGE

Jyoti-1 Whether speaking/reasoned Yes/No Whether Reportable Yes/No