

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP(227) No. 253 of 2020

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

---- Petitioner

Versus

Pradeep Agrawal S/o Late Satyanaran Agrawal R/o Flat No. 304, 3rd Floor, Mahima Vihar , Bilaspur , District Bilaspur Chhattisgarh.... (Judgement Debtor)

---- Respondent

For Petitioner : Shri N.K. Chatterjee, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

04-03-2020

Heard.

1. This petition has been brought being aggrieved by the order dated 14.2.2020 passed in Civil Execution Case No. 55-B of 2015, by which the prayer of the petitioner/ decree holder for seeking police help in execution of warrant of arrest upon the judgment-debtor was denied.
2. It is submitted by counsel for the petitioner that in execution of the decree for recovery of money, the respondent/ judgment-debtor has avoided the service of process successfully, therefore, on the prayer made by counsel for the petitioner, learned Court has issued warrant of arrest for detention of the respondent/ judgment-debtor in civil jail which could not be served. Therefore, looking to the avoiding tactics of the respondent, the petitioner then filed an application seeking police help in execution of the warrant of arrest against the respondents which has been dismissed mentioning that such procedure is not provided under Order XXI Rule 38 of the CPC. It is further submitted that although

there is no specific provision under Order XXI Rule 38 of the CPC regarding that the police help may be stopped, but in the extreme circumstances it is not possible for a Court Officer to fix the service of the process upon the person concerned who is bent upon to avoid such services. Hence, under these circumstances, this Court cannot exercise jurisdiction under Section 151 of the CPC and pass appropriate order and further Rule 232 of M.P./ C.G. Civil Court Rules, 1961 also provides for the same.

3. After considering the submissions made by counsel for the petitioner, I am of this view that if the circumstances so permit then the Court has the inherent power to order for police assistance in execution of warrant of arrest in civil cases. Therefore, the petition is disposed off and the application filed by the petitioner for seeking police help is allowed. Learned Court below is directed to provide the police help for execution of warrant of arrest in accordance with the rules that are provided in Civil Court Rules and Orders.
4. Accordingly, the petition is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge