

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 552 of 2019

- Suresh Agrawal S/o Shri R.K. Agrawal, Aged About 55 Years, R/o Ramnivas Talkies Road, Raigarh, Tahsil and District Raigarh Civil And Revenue District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

---- Petitioner

Versus

- Indus Ind Bank Limited Through Branch Manager, Ravibhavan Raipur, Tahsil and District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

--- Respondent/Decree Holder

For Petitioner – Shri Manoj K. Sinha, Advocate.

For Respondent – Shri Ashish Surana, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

29-01-2020

Heard.

1. This petition has been brought being aggrieved by the order dated 08-04-2019 passed by the Executing Court by which an order has been passed for issuance of levy warrant.
2. It is submitted that the petitioner had given a proposal to the respondent to negotiate and come the terms for compromise. On 08-04-2019 when the petitioner was not present before the Court the respondent/decree holder gave a proposal that if the petitioner makes payment of Rs.4,50,000/- in total then the execution proceeding may be closed. Because of the absence of the petitioner, the learned trial Court has passed the order for issuance of levy warrant without giving any opportunity to the petitioner to agree to the proposal or to oppose the proposal. Therefore, the order passed is erroneous.
3. Learned counsel for the respondent opposes the submission and submits that there had been only proposal given by the respondent/decree holder on the call made by the petitioner/judgment debtor, the judgment debtor/petitioner was not vigilant and present before the Court, therefore, he cannot make a ground that levy warrant cannot be issued. However, the

decree against the petitioner is still existing which gives entitlement to the respondent to execute the same. Therefore, the petition be dismissed.

4. Heard learned counsel for the parties and perused the documents.

5. Considered on the submissions made by learned counsel for both the sides. As only issue raised by the petitioner side is this, that he is unable to make payment of whole amount in one go, therefore he should be allowed to make payment on installment. It is a matter to be considered by the executing Court itself and also upon the agreement by the respondent side. Therefore, this prayer can be raised before the executing Court. Hence, the petition is disposed off and the petitioner is granted liberty to raise this matter for making payment of decree amount in installments and also regarding his response to the proposal made by the respondent side regarding compromise. If any such prayer is made, then learned trial Court is directed to consider on the same and pass appropriate order.

6. The petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge