

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

Civil Revision No. 1826 of 2021

Date of Decision: October 08 , 2021.

Radha Raman

..... PETITIONER

Versus

The Amritsar Improvement Trust, Amritsar and others RESPONDENTS

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Shailendra Jain, Senior Advocate with
 Mr. Satyendra Chauhan, Advocate
 for the petitioner.

Mr. Kushagra Mahajan, Advocate
for respondent No.1.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Prayer in this revision petition is for direction to the learned Executing Court to dispose of the pending execution application in a time bound manner.

It is submitted that petitioner filed for execution of award dated 04.05.2019 on 15/16.07.2019. Respondent-judgment debtor appeared through their counsel on 14.12.2019, but objections were not filed by him and warrants were ordered to be issued for 09.01.2020. Thereafter, on an application under Order 21 Rule 46A (1) and (2) read with Section 151 CPC moved by the petitioner-decree holder, notice was issued to the garnishees by the learned Executing Court on 17.02.2020. Since the respondent was not served, the notice

was again issued for 25.02.2021. Objections were ultimately filed on behalf of respondent No.1 on 03.02.2021. Reply to the objections were filed by the petitioner-decree holder on 09.02.2021. However, proceedings came to a virtual standstill due to the outbreak of pandemic, COVID-19. The matter, it is submitted, is still hanging fire due to no fault on the part of the petitioner.

Though notice of motion had not been issued in this case, advance copy of the petition stands supplied to respondent No.1. Mr. Kushagra Mahajan, Advocate appears on behalf of respondent No.1-judgment debtor. Mr. Mahajan submits that filing of objections was necessitated because there is a dispute regarding the amount to which the petitioner is entitled to. Learned counsel for respondent No.1, on instructions from Mr. Gautam Majithia, Law Officer, submits that insofar as the admitted amount is concerned, the same shall be deposited by respondent No.1 within a period of two to four weeks.

Heard learned counsel for the parties.

It is a settled position of law that execution applications are required to be decided expeditiously. The Hon'ble Supreme Court in **Rahul S.Shah v. Jinendra Kumar Gandhi, 2021(2) RCR(Civil) 854** has held as under:-

“42. All Courts dealing with suits and execution proceedings shall mandatorily follow the below-mentioned directions:

1. In suits relating to delivery of possession, the court must examine the parties to the suit under Order 10 in relation to third.
2. party interest and further exercise the power under Order 11, Rule 14 asking parties to disclose and produce documents, upon oath, which are in possession of the parties including declaration pertaining to third party interest in such properties.
3. In appropriate cases, where the possession is not in dispute and

not a question of fact for adjudication before the Court, the Court may appoint Commissioner to assess the accurate description and status of the property.

4. After examination of parties under Order 10 or production of documents under Order 11 or receipt of commission report, the Court must add all necessary or proper parties to the suit, so as to avoid multiplicity of proceedings and also make such joinder of cause of action in the same suit.

5. Under Order 40, Rule 1 of CPC, a Court Receiver can be appointed to monitor the status of the property in question as custodia legis for proper adjudication of the matter.

6. The Court must, before passing the decree, pertaining to

7. delivery of possession of a property ensure that the decree is unambiguous so as to not only contain clear description of the property but also having regard to the status of the property.

8. In a money suit, the Court must invariably resort to Order 21, Rule 11, ensuring immediate execution of decree for payment of money on oral application.

9. In a suit for payment of money, before settlement of issues, the defendant may be required to disclose his assets on oath, to the extent that he is being made liable in a suit. The Court may further, at any stage, in appropriate cases during the pendency of suit, using powers under section 151 CPC, demand security to ensure satisfaction of any decree.

10. The Court exercising jurisdiction under Section 47 or under Order 21 of CPC, must not issue notice on an application of third-party claiming rights in a mechanical manner. Further, the Court should refrain from entertaining any such application(s) that has already been considered by the Court while adjudicating the suit or which raises any such issue which otherwise could have been raised and determined during adjudication of suit if due diligence was exercised by the applicant.

11. The Court should allow taking of evidence during the execution proceedings only in exceptional and rare cases where the

question of fact could not be decided by resorting to any other expeditious method like appointment of Commissioner or calling for electronic materials including photographs or video with affidavits.

12. The Court must in appropriate cases where it finds the objection or resistance or claim to be frivolous or mala fide, resort to Sub-rule (2) of Rule 98 Order 21 as well as grant compensatory costs in accordance with Section 35A.

13. Under section 60 of CPC the term "..in name of the judgment-debtor or by another person in trust for him or on his behalf" should be read liberally to incorporate any other person from whom he may have the ability to derive share, profit or property.

14. The Executing Court must dispose of the Execution Proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay.

15. The Executing Court may on satisfaction of the fact that it is not possible to execute the decree without police assistance, direct the concerned Police Station to provide police assistance to such officials who are working towards execution of the decree. Further, in case an offence against the public servant while discharging his duties is brought to the knowledge of the Court, the same must be dealt stringently in accordance with law.

16. The Judicial Academies must prepare manuals and ensure continuous training through appropriate mediums to the Court personnel/staff executing the warrants, carrying out attachment and sale and any other official duties for executing orders issued by the Executing Courts.”

It is pertinent to note at this stage that outbreak of pandemic, COVID-19 indeed created an unprecedented situation not only in India but all over the world. Keeping in view the peculiar facts and circumstances, this revision petition is disposed of with the observation that learned executing court

shall take necessary action in accordance with the specific guidelines laid down by the Hon'ble Supreme Court in Rahul S.Shah's case (supra). Needless to say, the admitted amount be deposited in terms of the statement made by learned counsel for respondent No.1 as noted in the foregoing paras.

October 08 , 2021.
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(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No