

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

CR-3453-2021

Date of Decision:22.12.2021**GAHAR SINGH**

...Petitioner

Versus

SATISH KUMAR

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Ms. Kiranjeet Kaur, Advocate
for the petitioner.

(Presence marked through Video Conference)

ARUN MONGA, J. (ORAL)

Petition herein, under Article 227 of Constitution of India is for setting aside the impugned orders dated 12.12.2019 (Annexure P-5) and 12.11.2021 (Annexure P-6) passed by learned Civil Judge (Senior Division), Fazilka, whereby, in pursuance of application moved by the respondent under Order 21 Rule 37 (Annexure P-3), the conditional warrants of arrest in the name of the petitioner in execution proceedings were ordered.

2. Learned counsel for the petitioner submits that the respondent/decreed holder filed a civil suit for recovery of Rs.10,65,953/- as principal amount and interest @ 2% per month on the basis of account books. The said suit was decreed on 25.08.2017. However, in order to recover the decretal amount, the respondent filed an execution against the petitioner. During the pendency of the execution proceedings, the property of the petitioner i.e. 48 kanals 09 marlas was attached and thereafter, the respondent moved an application under Order 21 Rule 66 C.P.C for the sale of attached property, which was allowed vide order dated 06.05.2019. The respondent further moved an application under Order 21 Rule 37 C.P.C for arrest and detention of the petitioner, which was also allowed and vide impugned orders, the petitioner was summoned through conditional warrant of arrest. Learned counsel for the petitioner submits that the respondent

without exhausting the remedy available for sale of the property which is under the ownership of petitioner, moved an application for arrest and detention of the petitioner, which was allowed by the learned trial Court.

3. I have heard learned counsel for the petitioner and gone through the case file.

4. No interference is called for in the order assailed herein, which is premised, *inter alia*, on the following reasoning:

“ Perusal of file shows that in the present case, a decree of recovery of Rs.10,64,753.20 paisa was passed in favour of decree holder and against the J.D. The property of the J.D was attached and put to open auction. Sale warrants were received with the report that nobody was ready to give bid at the spot. It appears that the J.D is a man of sufficient means as he is enjoying the fruits out of landed property owned by him but he is deliberately not paying the decretal amount. The land cannot be sold in open auction. Thus, all the other means of execution have been exhausted but the decree could not be satisfied. Therefore, there is no other manner to execute the decree except by arrest and detention of the judgment debtor. Therefore, the application under order 21 rule 37 CPC stands allowed and conditional warrants of arrest of judgment debtor be issued for 05.02.2020.’

5. A perusal of above leaves no manner of doubt that there is no irregularity either in facts or in law, so as to exercise extraordinary revisional jurisdiction vested with this Court.

6. There is no room for interference in the aforesaid valid reasons recorded by the trial Court, with which I am in agreement.

7. Dismissed.

(ARUN MONGA)
JUDGE

22.12.2021
gurpreet

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