

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

CR-3454-2021 (O&M)

Date of decision: 17.03.2022

Earthwise Hospitality and Entertainment Holding Pvt. Ltd. And another

....Petitioner

Versus

The Pheonix Mills Ltd. and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sandeep Khunger
and Ms. Nitika Jaura, Advocates for the petitioners

Mr. Ashwani Kumar Chopra, Sr. Advocate with
Mr. Pankaj Gupta, Advocate for the respondent no.1

ANIL KSHETARPAL, J (Oral)

CM-2158-CII-2022

Allowed as prayed for.

Main case

This revision petition under Article 227 of the Constitution of India has been filed challenging the correctness of the order passed by the Additional District Judge-cum-Presiding Judge, Exclusive Commercial Court, Gurugram, on 25.11.2021. It is not in dispute that a consent decree in terms of the agreement between the parties was passed on 29.04.2014. According to the aforesaid decree, certain amount was payable by the judgment debtor to the decree-holder. Subsequently, another decree was passed on 24.09.2018. Out of the total amount payable, of more than two crores, an amount of Rs.11,92,000/- (approximately) has only been paid.

The operative part of the order reads as under:-

“In these peculiar facts and circumstances of the present case, time has now come to secure the presence of Amar Aggarwal, Director of JD No.2 in the court by way of issuance of warrant of arrest so as to ask him as to why he should not be sent to civil prison for having failed to clear the dues of the DH. Having made a categorical statement on 29.05.2018 before the court, he cannot deny his liability to pay the due amount to clear the financial obligations of the JDs towards DH. Issuance of warrant of arrest has become imperative as post filing of an application under O 21 R 37 CPC, Amar Aggarwal has not cared to appear in person even once before the court.”

It is evident that the executing court has directed the issuance of warrants of arrest so as to secure the presence of Amar Aggarwal, Director of JD no.2. It is also evident that he has been given an opportunity to explain as to why he should not be sent to the civil imprisonment. Sh. Amar Aggarwal shall appear before the Exclusive Commercial Court, Gurugram and furnish his explanation at the first instance.

This Court has been informed that the matter is pending for 31.03.2022. It is ordered that till 31.03.2022, the arrest of Sh.Amar Aggarwal shall remain stayed, subject to the condition that he appears before the Exclusive Commercial Court, Gurugram on 31.03.2022 to explain his stand. It is made clear that if he does not appear before the concerned court on the date fixed, the court shall be at liberty to proceed in accordance with law.

Disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

17.03.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE