

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

115

**CR No. 5297 of 2022 (O & M)
Date of Decision : 17.11.2022**

C.P. Gupta

..... Petitioner

Versus

Rajesh Bansal and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present : Mr. C.S. Pasricha, Advocate, for the petitioner

TRIBHUVAN DAHIYA, J.

1. This petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 7.11.2022 (Annexure P-1) passed by the Executing Court, whereby the petitioner/judgment debtor's application for payment of the decretal amount in installments has been dismissed, and fresh conditional warrants of arrest have been issued.

2. Learned counsel for the petitioner/judgment debtor has contended that the application should not have been dismissed as he offered to make payment of the decretal amount at the rate of Rs.50,000/-per month. The petitioner, a registered medical practitioner (BAMS Ayurvedic), has no assets and as per his income tax returns he only earns Rs.5 lakhs per annum. Therefore, he is not in a position to pay the full decretal amount of Rs.4,95,500/-. Learned counsel has also contended that it is a *bona fide* offer and even today he is ready to pay an amount of Rs. One lakh upfront in partial satisfaction of the decree.

3. The facts on record show that the decree in favour of the respondent/decreet holder was passed on 4.7.2014, but the same has not been

executed so far; not a single rupee has been paid to him by the petitioner/judgment debtor. The decree in question was challenged before the Delhi High Court by filing **RFA No. 351 of 2015**, whereby vide order dated 5.2.2016, it was ordered that execution of the decree shall remain stayed subject to the judgment debtor depositing entire decretal amount with interest with the Court within four weeks. Despite these orders, the amount was not deposited. Therefore, neither the application filed by the petitioner seeking permission to deposit the amount in monthly installments, nor his offer to make the upfront payment of Rs. One lakh at this stage, can be said to be *bona fide*. The petitioner is liable to pay the full decretal amount with interest as due. Since the conditional order of stay passed by the Delhi High Court has not been complied with, there is no stay on execution of the decree in question.

4. Therefore, there is no infirmity in the order passed by the Executing Court declining the petitioner/judgment debtor's application to deposit the amount in installments, and issuing conditional warrants of arrest against him.

5. Dismissed.

6. Pending miscellaneous application(s), if any, stands disposed of as having been rendered infructuous.

(TRIBHUVAN DAHIYA)
JUDGE

17.11.2022

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No