

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CR-6948-2019 (O&M)
Date of decision: 09.09.2022

Sunil

..Petitioner

Versus

Rajwati and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kunal Dawar, Advocate
for the petitioner.
Mr. Rajeshwar Singh Thakur, Advocate
for respondent no.1

ANIL KSHETARPAL, J(Oral)

The correctness of the warrants of arrest of the petitioner in execution of a decree for recovery of amount has been questioned.

Admittedly, the first appeal filed by the petitioner is still pending.

On 16.11.2019, the following order was passed:-

“This civil revision has been filed at the instance of petitioner/judgment-debtor (Sunil) impugning the legality of order dated 16.10.2019 (Annexure P-1), in terms of which, warrant of arrest has been issued against him to satisfy the decree.

Learned counsel for the petitioner/judgment-debtor, at the very outset, submits that though recourse to provisions of Order 21 Rule 37 CPC has been resorted to by Executing Court but said course adopted by Court is not in accordance with law as prior to issuance of warrant of arrest, a showcause-notice was required to be served upon the petitioner/judgment-debtor and failing which proceedings being initiated by the Executing Court cannot be sustained in the eyes of law.

Learned counsel for the petitioner/judgment-debtor in the alternative has urged that since it is a money decree, which is sought to be executed by the Executing Court, petitioner/judgment-debtor is willing to pay 50% of the decretal amount i.e. Rs.35,00,000/- within 7 days and that amount would be payable to respondent No.1/decreed holder (Smt. Rajwati). He further submits that in case petitioner/judgment debtor succeeds in his appeal, which is pending adjudication before Lower Appellate Court, indemnity bond is required to be furnished at the instance of respondent No.1/decreed holder (Smt. Rajwati) at the time of acceptance/deposit/payment of above said amount in her favour.

In view of above, notice of motion for 06.02.2020 to respondent No.1/decreed holder (Smt. Rajwati) as well as through her counsel, who is representing her cause, in the Executing Court.

In the meanwhile, operation of impugned order dated 16.10.2019 (Annexure P-1), as detailed above, shall remain stayed subject to the condition that petitioner/judgment-debtor (Sunil) shall pay/deposit amount of Rs.35,00,000/- favouring respondent No.1/decreed holder (Smt. Rajwati) within a week in the Executing Court and on payment/deposit thereof in her favour, in turn, she would furnish indemnity bond, as detailed above, so as to secure the rights, if any, of petitioner/judgment debtor.”

Admittedly, the petitioner has already deposited 50% of the decretal amount.

Keeping in view the aforesaid facts, the revision petition is disposed of with a request to the Executing Court to keep the execution

petition in abeyance till the decision of the first appeal.

The First Appellate Court is requested to decide the pending appeal, positively, within a period of 3 months, from today. If the counsels representing any of the party comes up with a unreasonable request of adjournment, the court will be competent to pass appropriate orders.

Disposed of accordingly.

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

September 09, 2022

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(ANIL KSHETARPAL)
JUDGE

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