

230 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-5024-2017

Date of Decision: 19th April, 2023

Sharvan Kumar Bhatia

... Petitioner

Versus

DCM Textiles

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Tarranum Madan, Advocate for
Mr. Viren Jain, Advocate the petitioner(s).

Mr. Saurabh Arora, Advocate for the respondent.

AVNEESH JHINGAN , J.(Oral)

1. This revision petition is filed seeking quashing of orders dated 28.10.2016 and 17.5.2017 whereby the conditional warrants of arrest of the petitioner were issued in the execution proceedings.

2. On 31.7.2017 the following order was passed :-

“Learned counsel for the petitioner contends that award dated 24.07.2009 and order dated 21.12.2013 passed under Section 34 of the Arbitration and Conciliation Act, 1996 have attained finality. Execution of money decree was sought by way of attachment and auction of movable and immovable properties of the judgment debtor. Concededly, as per para no.2 of the application for execution of the award filed by the decree holder, the case was fixed for filing the list of properties of the judgment debtor. Without resorting to the provisions of Order 21 Rule 64 and 66 CPC, an application for execution of the decree was filed by arrest and detention of the judgment debtor.

Notice of this application was issued, somehow reply was not filed by the judgment debtor. Order dated 28.10.2016 was passed whereby conditional warrants were issued against

the judgment debtor. The application for recall of the aforesaid order on the ground of non-compliance of Order 21 Rule 37 CPC was declined on the ground that non-filing of reply to the application would amount to an inference of show cause under Order 21 Rule 37 CPC.

Learned counsel further contends that non-filing of reply to the application would entail in different consequence. Arrest and detention of the judgment debtor ought to have been resorted to as a last measure. Once the list of properties were required to be submitted to the Court as per mode of execution for satisfying the decree, conditional warrants issued against the judgment debtor were totally unwarranted.

Notice of motion for 06.10.2017.

Till the next date of hearing, warrants may not be executed.”

3. Learned counsel for the petitioner submits that the Executing Court had not proceeded in accordance with Order XXI of the CPC and directly ordered conditional warrants of arrest of the petitioner. She further on instructions submits that the petitioner would appear before the Executing Court on the next date fixed and file reply as well as the list of properties.

4. Learned counsel for the respondent submits that award is of the year 2009 and for more than thirteen years his client could not get the fruits of the award. The contention is that Executing Court be directed to conclude proceedings expeditiously.

5. There cannot be dispute on the proposition that for recovery of money, the arrest of the Judgment Debtor is the last resort and the procedure as laid down under CPC has to be followed.

6. In view of the above, the impugned orders are set aside.

7. Let the parties appear before the Executing Court on the next date fixed i.e. 3.5.2023. The petitioner shall file reply to the Execution application and furnish list of properties as undertaken before this Court within six weeks from today.
8. There is no doubt that the Executing Court considering that the award is of the year 2009 shall conclude the execution proceedings expeditiously.
9. Petition is disposed of.
10. Since the main case has been decided, the pending application(s), if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

19th April, 2023
anuradha

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