

140.

2024:PHHC:032690

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

Civil Revision No.5778-2023 (O&M)

Date of decision: 06.03.2024

Rajeev Kumar and others

.... Petitioners

Versus

Satish Sardana

.... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Ravi Dutt Sharma, Advocate, for the petitioners.

Mr. Jagdish Manchanda, Advocate, for the respondent.

GURBIR SINGH, J.

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is to the order dated 12.09.2023 (Annexure P-20) passed by learned Civil Judge (Senior Division)-cum-Chief Judicial Magistrate, Kaithal, in Execution Application No.60 of 2019, whereby warrant of arrest against the petitioners-Judgment Debtors under Order 21 Rule 37 CPC has been issued.

2. Brief facts of the case are that vide judgment and decree dated 05.02.2019 passed by learned Civil Judge (Senior Division), Kaithal, a decree for recovery of Rs.35,81,881/- along with pendente lite and future interest @ 6% per annum on the principal amount of Rs.30,21,000/- from the date of filing the suit till the date of realization was passed in favour of respondent-plaintiff. The petitioners-defendants filed appeal and also an application for stay of said judgment and decree. Pending appeal, execution

was filed by the plaintiff-Decree Holder. Vide order dated 04.10.2022, District Excise and Taxation Officer (Excise), Kaithal, was directed to transfer Rs.50 lakhs in the account of Decree Holder within a week from the security deposited by the petitioners-Judgment Debtors with the said department. Against said order, objections were filed by Excise & Taxation Department, Kaithal. Reply/rejoinder were also filed. However, vide order dated 06.02.2023, said objections were dismissed. Against said order, Excise & Taxation Department filed an appeal i.e. CMA No.13 of 2023 along with an application for stay of said order. Vide order dated 20.02.2023, operation of order dated 06.02.2023 was stayed.

2.1 Since the petitioners- Judgment Debtors were not obeying the decree, the respondent-Decree Holder moved an application dated 04.08.2023 (Annexure P-16) for their arrest and detention in civil imprisonment till compliance of decree. Vide order dated 12.09.2023 (Annexure P-20), said application was allowed and warrants of arrest have been issued against the petitioners. It is the said order which has been challenged by way of present revision petition.

3. While issuing notice of motion vide order dated 28.11.2023 passed by this Court, operation of the impugned order was stayed.

4. Learned counsel for the respondent, at the outset, submits that respondent-Decree Holder has no objection if the impugned order is set aside and the petitioners-Judgment Debtors are directed to appear before the Executing Court.

5. On the other hand, learned counsel for the petitioners submits the petitioners-Judgment Debtors are ready to appear before the Executing Court.

6. In view of above statement, the order dated 12.09.2023 (Annexure P-20) is hereby set aside and the petitioners-Judgment Debtors shall appear before the Executing Court on 02.04.2024 positively and no separate notice shall be issued to them. If none appears on behalf of Judgment Debtors, then it shall be presumed that they have not intentionally appeared in the Court since this order is passed in the presence of their counsel. The learned Executing Court shall proceed further with the execution in accordance with law.

7. Learned Executing Court shall make effort to dispose of the execution application expeditiously without any delay.

8. Present revision petition stands disposed of accordingly.

9. Pending application, if any, shall also stand disposed of.

(GURBIR SINGH)
JUDGE

March 06, 2024
sanjeev

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