

2024:PHHC:134549



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

128

CR-5835-2024 (O&M)  
Date of decision: 15.10.2024

Raghubir Singh Atri

...Petitioner

Versus

Savitri and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Prashant Kumar Kapila, Advocate for the petitioner.

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**VIKAS SURI, J. (Oral)**

1. Prayer in this revision petition under Article 227 of the Constitution of India is for setting aside order dated 06.08.2024 passed by learned Executing Court whereby issuance of conditional warrant of arrest of the petitioner has been ordered.
2. Learned counsel for the petitioner submits that it is not disputed that a decree has been passed against the petitioner as well as an order of mandatory injunction directing him to make the necessary payment to the plaintiff-decree holder within two months of passing of the said order. It is contended that petitioner was not an office bearer of defendant Nos.4 and 5, i.e. the respective society, which had taken the deposit and issued the receipt. It is further submitted that petitioner has now preferred an appeal against the judgment and decree dated 30.10.2017 along with an application seeking condonation of delay,



which is pending consideration for 18.01.2025. Learned counsel for the petitioner further contends that vide impugned order dated 06.08.2024, conditional warrant of arrest has been ordered to be issued against the petitioner without following the due process.

3. Learned counsel for the petitioner states that to show his *bona fide*, the petitioner is willing to deposit 50% of the decretal amount as security. It has fairly been pointed out that petitioner has also moved an application before the Executing Court for setting aside the impugned order dated 06.08.2024 and for recalling the conditional warrant of arrest of the petitioner. However, the said application could not be heard on 16.09.2024 and the matter is now pending for 25.10.2024.

4. It is trite law that a party cannot simultaneously avail two separate remedies.

5. Faced with the above, learned counsel for the petitioner seeks withdrawal of the present petition with liberty to pursue his application pending before the learned Executing Court.

6. Dismissed as withdrawn with liberty aforesaid.

October 15, 2024  
*sumit.k*

**(VIKAS SURI)**  
**JUDGE**

|                             |          |
|-----------------------------|----------|
| Whether speaking/reasoned : | Yes / No |
| Whether Reportable :        | Yes / No |