

Ct. No. 29
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21.11
2025

C.O. 3851 of 2024

Debasish Sinha
Vs.
Tripti Sen & Ors.

Mr. Pratip Mukherjee
Mr. Rahul Agarwal

...For the Petitioner

Opposite party is not represented.

This is an application wherein the petitioner has challenged the impugned order passed by the learned District Consumer Dispute Redressal Commission dated 10th July, 2024 by which the commission issued warrant of arrest against the judgment debtor for recovery of entire decretal amount with interest.

Being aggrieved by the said order, learned counsel for the petitioner submits that the District commission failed to construe that the warrant of arrest cannot be issued against the petitioner herein in view of the settled position of law and he is acted going beyond his jurisdiction as the District Consumer Dispute Redressal Commission is not vested with the power to issue blanket order of warrant of arrest without complying with the other provision of the statute. Therefore the impugned order is illegally and liable to be set aside. In this context, he relied upon a judgment of this court passed in **(2022) SCC Online Cal 3519 (Somadhan Properties Vs. Pulak Kumar Bera)** and also another judgment passed in **C.O. 3257 of 2022 (Bapi @ Birendra Mondal Vs. Bally Jute Mill Employees Co-operative Credit Society Limited)**

Having considered the submissions made by the petitioner, it appears in the order impugned that the commission rejected the judgment debtor's prayer and straightway issued the warrant of arrest against the judgment debtor for recovery of the entire decretal amount with interest.

This court, after discussing relevant provision and the judgement reported in the case of **L&T Finance Limited Vs. Pramod Kumar Rana (2021 SC Online SC 1124)** held in Somadhan Properties case (supra) that the warrant of arrest are to be issued as a last resort and only in a case where it is found that the opponent parties are not cooperating at all and that they are avoiding the commission deliberately are/or they are not represented at all either personally or through their representatives or through their counsel.

Since in the impugned order, the commission has straightway issued warrant of arrest against the judgment debtor, I find that the impugned order is not legally sustainable.

In view of the aforesaid discussion, the order impugned dated 10.7.2024 and 13.9.2024 regarding issuance of warrant of arrest against the judgment debtor is hereby set aside.

C.O. 3851 of 2024 is accordingly allowed. However, this order will not preclude the commission to pass further order including attachment of property after giving opportunity to both the parties to represent their

case relating to the non-payment and/or non-appearance before the commission. It will also be open for the commission to pass necessary direction to require presence of the present petitioner if required in future, after compliance of the provisions contemplated in Section 25 of the Consumer Protection Act read with relevant provisions of the Code of Civil Procedure.

Urgent Photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

(Dr. Ajoy Kumar Mukherjee, J.)