

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****118****CR-1543-2025 (O&M)****Date of decision: 12.03.2025****Surinder Gadara****...Petitioner(s)****Vs.****Din Dayal Tayal****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Priyanshu Kamra, Advocate for the petitioner.

*********NIDHI GUPTA, J.**

The present Civil Revision Petition has been filed by the Judgment Debtor under Article 227 of Constitution of India for setting aside the order dated 10.02.2025 (Annexure P-5) passed by the learned Additional Civil Judge, Senior Division, Abohar whereby the objections filed by the petitioner have been dismissed and conditional warrants of arrest are issued by the learned Executing Court against the petitioner.

2. Learned counsel for the petitioner *inter alia* submits that the petitioner is an indigent person. He has no movable or immovable assets. As such, he is unable to pay the decretal amount. It is submitted that even an offer was made by the petitioner before the learned Executing Court that as and when he has the funds available, he shall duly make payment of decretal amount. The petitioner has no means to pay the execution amount nor he has transferred any property after initiation of the suit in which decree has been passed. The Decree Holder has also not produced any document or proof to show that the petitioner is able to satisfy the



decree. Even no evidence has been produced by the Decree Holder which proves that the petitioner has sufficient means to pay the decretal amount. Despite this, conditional warrants of arrest have been issued vide impugned order dated 10.02.2025 (Annexure P-5). However, in view of the above facts, the petitioner cannot be sent to civil imprisonment. In support of his contention, counsel for the petitioner relies upon the following judgments:-

“1. M.V.Raju vs. The Manager, Indian Overseas Bank” Law Finder

Doc Id # 123458, Kerala High Court,

2. “T.K.N.Pitchaimuthu and others vs. The Manager Tamil Nadu

Mercantile Bank Ltd., Palani Branch Palani, Dindigul District,” Law

Finder Doc Id # 954829, Madras High Court, and

3. C.RP. (PD) NO. 3747 of 2011 & MP No.1 of 2011 titled as

“Ramasamy vs. Pushpa” High Court of Madras

No other argument is raised on behalf of the petitioner.

3. I have heard learned counsel for the petitioner/Judgment Debtor and perused the case file in great detail.

4. Brief facts of the case are that the plaintiff/Decree Holder/respondent herein, had filed a suit for recovery of Rs.6,23,930/- i.e. Rs.4,22,000/- as principal amount and Rs.2,01,930/- towards interest. Vide judgment and decree dated 29.02.2020 (Annexure P-1), the suit of the plaintiff was decreed with costs for recovery of Rs.4,22,000/- along with interest @ 9% per annum from 08.04.2015 till the date of order; and further interest @ 6% per annum on the decretal amount from the date of



decree till actual realization. It appears from the record that no appeal was filed by the petitioner against the judgment and decree dated 29.02.2020. Thereafter, the Decree Holder filed present Execution Application bearing No. EXE-235/2020 (Annexure P-2). In the said execution proceedings, the petitioner appeared only after conditional warrants of arrest were issued against him. The petitioner then filed an objection application dated Nil (Annexure P-3) for recalling of conditional warrants of arrest issued against him and for acceptance of the objection application. Reply thereto dated Nil (Annexure P-4) was filed by the Decree Holder. Vide impugned order dated 10.02.2025 (Annexure P-5), the above said application of the petitioner has been dismissed.

5. It has been contended on behalf of the petitioner that he has no means to pay the decretal amount; and that the Decree Holder has failed to produce any evidence to show that the petitioner has any means whatsoever to satisfy the decree. The above said objections of the petitioner were rejected by the Executing Court vide impugned order dated 10.02.2025 for the following reasons:-

“4. As per the objections filed on the behalf of the JD, he has no means to pay the decretal amount and is not having any property to satisfy the decree, hence, cannot be sent to civil imprisonment. The JD had contested the main suit throughout the trial and was not a pauper. As per the judgment passed, there were transactions between the decree holder and Judgment Debtor in regard to sale of agricultural produce and the loan was given to the JD, because he agreed to sell the produce through the plaintiff firm. Hence, the JD cannot state



that he has no means to pay the amount of decree or substantial part thereof and he cannot neglect to make the payment of decretal amount, only because of the fact that the decree holder has not brought the record of the property, if any, so recorded by the name of JD. If a person can contest the entire case and even the execution thereof, through the counsel, he cannot be expected to say that he has no amount of payment with him to pay the decretal amount to the decree holder. Under the garb of Section 51 CPC, the Judgment Debtor cannot merely wriggle out of his legal responsibility to honour the decree of the court by simply stating that he do not have any means to make the payment, as ordered by the court. Despite having the means the JD has not even preferred any appeal against the judgment passed by the trial court. In view of above discussion, no reason is found out to not to issue the conditional warrants against the Judgment Debtor. Accordingly, the conditional warrants be issued against the Judgment Debtor, mentioning the decretal amount, for 28.02.2025, on filing of subsistence allowances by the decree holder.”

(Emphasis added)

6. I am in complete agreement with the above said reasoning and view taken by the learned Executing Court. Only bald statements have been made that the petitioner does not have the means to satisfy the decree. However, it is not denied by learned counsel for the petitioner that the petitioner had actively contested the case. It has been contended that it has only now the petitioner has no means and no financial capacity to pay the decretal amount. However, even no application has been filed by the petitioner for contesting as indigent person.

7. Moreover, the conduct of the petitioner is also to be borne in mind. The record bears out that the presence of the petitioner was procured before the executing Court only after conditional warrants of arrest were issued against him. The conduct of the petitioner evidences that he is only trying to avoid the implementation of the decree. Furthermore, contention of the petitioner that he cannot be sent to civil imprisonment merely because he does not have funds to pay the decretal amount is unacceptable as that would render the provision of civil imprisonment redundant in cases where the Judgment Debtors blatantly flout the decree. The petitioner can derive no support from the relied upon judgments as the same are distinguishable on facts and law.
8. Thus, keeping in mind the entire facts and circumstances of the case, I find no ground is made out to interfere in the impugned order dated 10.02.2025.
9. The present civil revision petition is hereby **dismissed**.
10. Pending applications, if any, stand disposed of.

12.03.2025

Divyanshi

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No

(NIDHI GUPTA)

JUDGE