



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

(116)

CR-5241-2025Date of Decision:-**06.08.2025**

MAKHAN LAL

... Petitioner

Versus

RAJIV KUMAR AND OTHERS

... Respondents

-.-

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Arjun Veer Sharma, Advocate
for the petitioner.

VIRINDER AGGARWAL, J. (Oral)

1. This revision petition has been filed against the order dated 24.07.2025, whereby the revisionist has been ordered to undergo civil imprisonment for recovery of the decretal amount awarded vide decree under execution. The relevant part i.e. para No.5 of the impugned order reads as under:-

“Perusal of the file reveals that perusal of file reveals that Judgment Debtor Makhan Lal has not disclosed about his properties and have only taken plea that he has no sufficient means to pay the decretal amount as he was dismissed from his job. Further, Judgment Debtor Makhan Lal has submitted an affidavit which states that Hon'ble District Judge, Barnala declared Judgment Debtor an indigent person but Judgment Debtor Makhan Lal has failed to produce any order regarding the same. Moreover, there is no clarity that when the Judgment Debtor Makhan Lal was declared an indigent person. Hence, it is clear that Judgment Debtor



Makhan Lal is intentionally avoiding payment of decretal amount. Thus, under these circumstances, this Court is of the considered view that there is no other manner to execute the decree except the arrest and detention of the Judgment Debtor Makhan Lal in civil imprisonment. Therefore, the application under Order 21 Rule 37 CPC stands allowed.”

2. Perusal of the aforesaid relevant portion of the impugned order clearly shows that the learned Executing Court has nowhere recorded a finding that the revisionist is possessed of sufficient means and is intentionally avoiding to pay the decretal amount. Unless and until, it is found that the JD in spite of having been in possession of sufficient means is not intentionally paying the decretal amount, arrest warrant cannot be issued and he cannot be put behind bars due to his poverty, as has been held by Hon’ble Apex Court in “Jolly George Varghese vs. Bank of Cochin, 1980(2), SC 360”. In the light of aforesaid observation, the revision petition is allowed and the impugned order is set aside.

3. However, observations made herein above may not to be construed as opinion on the merits of the case. Same are purely confined to the present controversy and deliberations.

06.08.2025
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No