



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CR-6171-2025(O&M)
Date of decision: 08.09.2025

Ranjit Sharma & Another

...Petitioner(s)

Vs.

Sukhdev Singh

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Navinder Jit Singh Dandiwal, Advocate
for the petitioner.

NIDHI GUPTA, J.

Present Revision Petition under Article 227 of the Constitution of India has been filed by the defendant/judgment debtor seeking setting aside of the impugned order dated 06.08.2025 passed by learned Civil Judge (Senior Division), Moga (Annexure P10) vide which the learned Executing Court has allowed the application filed by the respondent/decreed holder under Order 21 Rule 41 and under Order 21 Rule 37 read with Section 151 CPC; and arrest warrants of the petitioner/judgment debtor under Order 21 Rule 37 CPC have been issued for 08.09.2025.

2. Brief facts of the case are that the respondent/plaintiff had filed suit for recovery of Rs.5,08,000/- against the petitioners/defendants on 07.10.2022. Vide judgment and decree dated 21.12.2023 (Annexure P1), suit of plaintiff was decreed with costs, for recovery of Rs.4 lakh along with



interest @ 12% per annum. The petitioners had filed appeal dated 'Nil' (Annexure P2) against the said judgment and decree dated 21.12.2023. In the meantime, the plaintiff/decree holder filed Execution Petition; in which the petitioners had filed objections on 13.08.2024 (Annexure P5) submitting that appeal against the judgment and decree dated 21.12.2023 is still pending. Vide order dated 19.10.2024 (Annexure P3), the objections of the petitioners/judgment debtors have been dismissed. The respondent had then moved an application dated 07.05.2025 (Annexure P9) under Order 21 Rule 41 and Order 21 Rule 37 CPC read with Section 151 CPC. Vide order dated 06.08.2025 (Annexure P10), the said application of the respondent has been allowed. Hence, present Revision Petition.

3. It is inter alia submitted by learned counsel for the petitioners that arrest warrants of the petitioners could not have been issued by the learned Executing Court without first recording a finding that the petitioners do not have sufficient funds to pay the decretal amount. It is submitted that it is admitted fact on record that the property of the petitioners was under mortgage. It is for this reason viz that the property of the petitioners is mortgaged with India Bulls Housing Finance Ltd. for Rs.75,89,139/-, that petitioner was unable to pay the decretal amount. Even otherwise, the petitioner is co-sharer in the shop measuring 5 marla. It is accordingly submitted that impugned order dated 06.08.2025 (Annexure P10) passed by



learned Civil Judge (Senior Division), Moga vide which arrest warrants of the petitioners have been issued be set aside.

4. No other argument is made on behalf of the petitioners.
5. I have heard learned counsel and perused the case file in detail.
6. Brief sequence of facts has already been noticed hereinabove.

This Court is not inclined to interfere in the impugned order as it has been categorically recorded in the impugned order dated 06.08.2025 (Annexure P10) that in the first instance, the property of the petitioner/judgment debtor was traced out by the decree holder with best efforts; upon which the suit property was attached by the Executing Court vide order dated 30.03.2024. Thereafter, property was put for an auction despite the fact that objections were moved by the judgment debtors "*or their henchmen*" on several occasions which were dismissed by the learned Executing Court. Even a third-party application-cum-objection was moved pointing out that the property in question already stood mortgaged with the Bank. Despite repeated Court queries, learned counsel for the petitioners has been unable to apprise this Court as to the date of execution of Mortgage Deed. Accordingly, in view of the above said facts brought to the notice of the Executing Court by the third party, decree holder was left with no other option but to move the instant applications on the failure of the judgment debtor to disclose his other property. Keeping in view the above said facts and the fact that despite that till date, the judgment and decree dated



21.12.2023 had not been set aside, arrest warrants of the judgment debtor had been issued. It is not the case of the petitioners that any stay of judgment and decree dated 21.12.2023 had been granted by the First Appellate Court.

7. In Para 4 of the impugned order, reference has been made to a Civil Suit titled as “Harjit Kaur Vs. Ranjit Sharma & Another” wherein vide order dated 07.05.2024 passed by learned Additional Civil Judge (Senior Division), Moga, it has been directed that alienation of the suit property mentioned in the Sale Deed dated 07.08.2014 has been stayed. Thus, keeping in view the entire circumstance, I find no error in the impugned order. Present petition accordingly stands **dismissed**.

8. Pending application(s) if any also stand(s) disposed of.

08.09.2025

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No