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

1. CR-7590-2025

Date of decision: 18.11.2025

ASHWANI AGNIMITRA AND ANR**..Petitioners**

Versus

ANIL KUMAR**..Respondent**

2. CR-7591-2025

ASHWANI AGNIMITRA AND ANR**..Petitioners**

Versus

ANIL KUMAR**..Respondent****CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Hemant Sarin, Advocate
Ms. Ekta Sharma, Advocate
Mr. Shikhar Sarin, Advocate
for the petitioners.

Mr. Harshit Joon, Advocate
for the respondent (in both cases).

SUDEEPTI SHARMA, J. (Oral)

1. Since the challenge in both the revision petition is to order dated 19.08.2025 passed separately in two execution petitions between the same parties, therefore, vide this common order both the revision petition shall stand decided.

2. The present revision petitions have been filed for setting aside order dated 19.08.2025, whereby, the petitioner was asked to file details of his personal properties (movable and immovable) including all the banking account details and ITRs for the last three preceding years and order dated 30.09.2025, whereby, review filed against the same was also dismissed.

3. Learned counsel for the petitioner contends that the decree is against the company and he was not even a party before the Civil Court in the civil suit and the learned Executing Court vide order dated 19.08.2025



has directed the petitioner to file details of his personal properties (movable and immovable) including all the banking account details and ITRs for the last three preceding years.

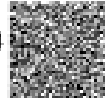
4. He further contends that he filed review against order dated 19.08.2025, which was also wrongly dismissed by learned Civil Judge (Junior Division) Gurugram vide order dated 30.09.2025. He therefore prays that the present petition be allowed.

5. Notice of motion.

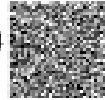
6. On asking of the Court, Mr. Harshit Joon, Advocate puts in appearance on behalf of the respondent in both the cases and filed his separate vakalatnama, which are taken on record.

7. I have heard learned counsel for the petitioner and perused the whole file with his able assistance.

8. A perusal of the zimni order shows that execution petition was filed on 02.07.2024, and the same was adjourned for 25.07.2024. On 25.07.2024, again, it was adjourned to 02.09.2024 for payment. On 02.09.2024, it was again adjourned to 21.11.2024, since the Civil Judge (Junior Division) Gurugram was on casual leave. On 21.11.2024, it was fixed for payment. The payment was not made and adjournment was sought by the Decree holder. Thereafter, it was adjourned to 21.01.2025 for payment and notice was issued to Judgment debtor and counsel in the main decree for the date fixed. On 21.01.2025, notice issued to Judgment debtor received back unserved and the case was fixed for fresh notice to Judgment debtor and the counsel in the main decree and the matter was adjourned to 21.02.2025. On 21.02.2025, notice issued to Judgment debtor was not received back and the counsel for Decree holder placed on record postal



Evidence Act, 1872, showing that notice to Judgment debtor has been sent, thereafter, on the same day itself i.e. 21.02.2025 Judgment debtor was proceeded against ex parte and the matter was fixed for 21.03.2025, for filing list of properties of Judgment debtor. On 21.03.2025, it was fixed for filing of list of properties of Judgment debtor which was not filed and application under Order XXI Rule 37 read with Section 151 of the Code of Civil Procedure, 1908 (in short 'CPC') was moved on behalf of the Decree holder and the matter was again adjourned to 14.08.2025 for consideration on application. Though, Judgment debtor was proceeded against ex parte vide order dated 21.02.2025, on 14.08.2025, Mr. R.K. Gothwal, Advocate appeared, claiming himself to be counsel for Judgment debtor, however, no vakalatnama or memorandum of appearance was filed and he ensured presence of director of Judgment debtor-Company on or before the next date of hearing. In view of the same instead of issuing conditional warrant, notice to Judgment debtor was issued through all its directors under Order XXI Rule 41 of CPC and called for the details of the properties held by Judgment debtor-Company and directors were directed to file details of properties on proper affidavit and the matter was adjourned to 19.08.2025. Further, it was directed by Civil Judge (Junior Division) Gurugram that if the directors of company fails to appear before the Court on the next date of hearing i.e. 19.08.2025, the Court shall be constrained to take coercive action, including their arrest by way of conditional warrant and again notice to Judgment debtor was issued for 19.08.2025. On 19.08.2025, the director of Judgment debtor-Company, Mr. Ashwani Agnimitra (petitioner herein) was present, and no list of properties was submitted and the counsel appearing for Judgment debtor asked for an adjournment to file the comprehensive report



and further order directing the director to submit all property held by company on affidavit along with his personal property (movable and immovable property) including all the banking account details was passed. It was further directed that director shall also file ITRs for the last 3 preceding years, and the matter was adjourned to 29.08.2025 for filing list of properties of Judgment debtor. This order dated 19.08.2025 is impugned in the present revision petition.

9. A perusal of the impugned order shows that vide same order without granting any opportunity to the petitioner Mr. Ashwani Agnimitra to file property details of the Judgment debtor-Company, the petitioner was also directed to submit all personal property details held by him (movable and immovable property) including all the banking account details and ITRs for the last three preceding years. He filed review against the same (order dated 19 August 2025) which was dismissed.

10. It would be apposite to reproduce order dated 14.08.2025 and 19.08.2025 as well as relevant provisions of CPC i.e. Order XXI Rule 37 and Order XXI Rule 41 of CPC, which are reproduced as under:-

“Today the case was fixed for consideration on application under Order 21 Rule 37. The JD has already been proceeded exparte on 21.02.2025. At this stage, learned counsel namely Sh. R.K Gothwal appeared claiming himself to be the counsel for JD. However, no Vakalatnama or memo of appearance filed. The learned counsel submitted that he shall ensure the presence of director of JD company on or before next date of hearing.

*In view of above, instead of issue the conditional warrant, **let notice to the JD through all its directors be issued under Order 21 Rule 41 CPC calling the details of properties hold by the JD company.** It is further directed that the aforesaid directors shall file the details of properties on proper affidavit. Further, it is made clear that if the directors of the company would fail to appear before the court on next date of hearing, the court shall be constrained to take coercive action including their arrest, by way of conditional warrant.*

Let notice to JDs be issued for 19.08.2025.

Date of Order: 14.08.2025
Reetu, SG-III

(Hari Kishan)
Civil Judge (Jr. Divn)
Gurugram/UID No HR00607

Today the case was fixed for presence of JD. The director of JD Mr. Ashwani Agnimitra present. However, no property details submitted. At this stage, learned counsel appearing for JD submitted that case may be adjourned for a week so that he may be filed a comprehensive report regarding all the properties of JD.

Heard. Allowed. However, it is made clear that the aforesaid director shall submit all property held by company on affidavit alongwith his personal properties (movable and immovable) including all the banking account details. The said director shall also file the ITR for last three preceeding years. Now to come up on 29.08.2025 for filing list of properties of JD.

Date of Order: 19.08.2025
Reetu, SG-III

(Hari Kishan)
Civil Judge (Jr. Divn)
Gurugram/UID No HR00607

“ORDER XXI

Execution of Decrees and Orders Payment under Decree

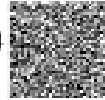
XXXXX XXXXX XXXXX XXXXX

37. **Discretionary power to permit judgment-debtor to show cause against detention in prison.—**(1) Notwithstanding anything in these rules, where an application is for the execution of a decree for the payment of money by the arrest and detention in the civil prison of a judgment-debtor who is liable to be arrested in pursuance of the application, the Court [shall], instead of issuing a warrant for his arrest, issue a notice calling upon him to appear before the Court on a day to be specified in the notice and show cause why he should not be committed to the civil prison:

[Provided that such notice shall not be necessary if the Court is satisfied, by affidavit, or otherwise, that, with the object or effect of delaying the execution of the decree, the judgment-debtor is likely to abscond or leave the local limits of the jurisdiction of the Court.]

(2) Where appearance is not made in obedience to the notice, the Court shall, if the decree-holder so requires, issue a warrant for the arrest of the judgment-debtor.

XXXXX XXXXX XXXXX XXXXX



41. Examination of judgment-debtor as to his property.

—[(1)] Where a decree is for the payment of money the decree-holder may apply to the Court for an order that—

(a) the judgment-debtor, or

(b) [where the judgment-debtor is a corporation], any officer thereof, or

(c) any other person,

be orally examined as to whether any or what debts are owing to the judgment-debtor and whether the judgment-debtor has any and what other property or means of satisfying the decree; and the Court may make an order for the attendance and examination of such judgment-debtor, or officer or other person, and for the production of any books or documents.

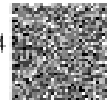
[(2)] Where a decree for the payment of money has remained unsatisfied for a period of thirty days, the Court may, on the application of the decree-holder and without prejudice to its power under sub-rule (1), by order require the judgment-debtor or where the judgment-debtor is a corporation, any officer thereof, to make an affidavit stating the particulars of the assets of the judgment-debtor.

(3) In case of disobedience of any order made under sub-rule (2), the Court making the order, or any Court to which the proceeding is transferred, may direct that the person disobeying the order be detained in the civil prison for a term not exceeding three months unless before the expiry of such term the Court directs his release.”

11. A perusal of order dated 14.08.2025 shows that this date was fixed for consideration on an application filed by the Decree holder under Order XXI Rule 37 read with Section 151 of CPC, whereas, Civil Judge (Junior Division) Gurugram on its own issued notice to the Judgment debtor through all its directors under Order XXI Rule 41 of CPC calling the details of the properties held by Judgment debtor-Company. Further it is very clear from a bare reading of order dated 14.08.2025 that no application was moved by the Decree holder under order XXI Rule 41 of CPC.

12. A bare reading of order dated 19.08.2025 as reproduced above shows that director of JD Mr. Ashwani Agnimitra was present along with the advocate of Judgment debtor-company with the request to adjourn the matter

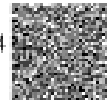
for a week so that comprehensive report regarding all the properties of



Judgment debtor can be filed. Though after hearing request was allowed, still all the properties held by company were directed to be submitted on affidavit along with the personal property (movable and immovable property) including all banking account details and ITRs for the last three preceding years were called for by Civil Judge (Junior Division), Gurugram without following proper procedure as laid down in the CPC.

13. Even a bare reading of Order XXI Rule 41 of CPC shows that the Decree holder has to apply to Court for an order that Judgment debtor or where the Judgment debtor is a corporation, any official or officer thereof or any other person be orally examined as to whether any or what debts are owing to the Judgment debtor and whether the Judgment debtor has any and what other property or means of satisfying the decree. And, it is on the application of the Decree holder that the particulars of the assets of Judgment debtor are called by the Court.

14. In both these provisions i.e. Order XXI Rule 37 and Order XXI Rule 41, there is nothing to show that Court on its own can issue notice to Judgment debtor through its director under Order XXI Rule 41 of the CPC calling for details of properties held by the Judgment debtor-Company rather the procedure under Order XXI Rule 41 of CPC starts on the application filed by the Decree holder. Therefore, as per the procedure laid down under CPC application is required to be moved by Decree holder, whereas, learned Civil Judge (Junior Division), Gurugram has exceeded the procedure laid down under CPC by calling for submission of personal property of the directors (movable and immovable property) including all banking account details and ITRs for the last three preceding years without any application filed by Decree holder under Order XXI Rule 41.



15. A bare reading of Order XXI Rule 37 as reproduced above, shows that under Order XXI Rule 37 application is moved by the Decree holder for the execution of decree for the payment of money by the arrest and detention in the civil prison of a Judgment debtor, and the Court has to issue a notice calling upon Judgment debtor to appear before the Court on a day to show cause why he should not be committed to the civil prison.

16. A perusal of order dated 14.08.2025 and 19.08.2025 shows that the procedure followed by learned Civil Judge (Junior Division), Gurugram is not in accordance with law, therefore, requires interference by this Court.

17. In view of the above, the present revision petition is allowed. The last para of order dated 19.08.2025 is modified to the extent of deleting the following portion of order dated 19.08.2025:-

“alongwith his personal properties (movable and immovable) including all the banking account details. The said director shall also file the ITR for last three preceding years.”

18. Now, the last para of order dated 19.08.2025 would be read as under:-

“Heard. Allowed. However, it is made clear that the aforesaid director shall submit all property held by company on affidavit. Now to come up on 29.08.2025 for filing list of properties of JD.”

19. With the aforesaid modification, both the revision petitions are disposed of.

November 18th, 2025

Ayub

**(SUDEEPTI SHARMA)
JUDGE**

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*