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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **C.R.P. 124/2023, CM APPL. 25596/2023 & CM APPL. 42563/2023**

SHAILENDRA SINGH SIDHUPetitioner
Through: Mr. Amarjit Singh Bedi,
Mr. Varun Chandiok &
Ms. Riya Seth, Advs.

versus

DEVASHISH BHATTACHARYARespondent
Through: Ms. Shraddha Bhargava,
Adv.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
12.02.2025

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1. The petitioner is essentially aggrieved by order dated 27.02.2023, whereby the warrants of arrest were issued against the petitioner by the Executing Court noting that a sum of ₹10 lakhs, as undertaken by the petitioner / Judgment Debtor ('JD'), was not paid. The learned Trial Court passed an order exercising power under Order 21 Rule 37 of the Code of Criminal Procedure, 1908 ('CPC').
2. Order 21 Rule 37 of the CPC provides that where an application is made by the Decree Holder for the execution of a decree for the payment of money by arrest and detention in the civil prison of a JD, the Court shall instead of issuing a warrant of his arrest, issue a notice calling upon him to appear before the Court and show cause why he should not be committed to civil prison.
3. In terms of the proviso to Rule 37 of the CPC, it is not necessary for the Court to issue notice if it is satisfied that with the object of delaying the execution of a decree, the JD is likely



to abscond or leave the local limits of the jurisdiction of the Court.

4. A bare perusal of the order indicates that no such satisfaction has been recorded by the learned Trial Court before issuing the warrants of arrest. The order, therefore, *ex facie* has been passed without assigning any reason.

5. In view of the above, the impugned order dated 27.02.2023 and the order dated 27.04.2023 are set aside. The matter is remanded back to the learned Executing Court for passing an order afresh after hearing both the parties.

6. Considering that the execution petition was filed way back in the year 2021, the Executing Court is directed to expediate the proceedings.

7. The petition is disposed of in the aforesaid terms.

8. All rights and contentions of the parties are kept open.

AMIT MAHAJAN, J

FEBRUARY 12, 2025

“SK”