



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

(209)

CR-502-2026

Date of Decision: - 29.04.2026

Ashok Oswal and another

....Petitioners

Versus

M/s Manoj Cotton Oil and General Mills and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Aalok Jagga, Advocate, and
Mr. Harkirat Singh, Advocate
for the petitioners.

Mr. Daldeep Singh, Advocate
for respondent No.1.

VIKAS BAHL, J. (ORAL)

1. Present civil revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 09.10.2025 (Annexure P-1), order dated 06.12.2025 (Annexure P-2) and order dated 24.12.2025 (Annexure P-3) passed by the Civil Judge (Junior Division), Dabwali, Sirsa, in Execution Application bearing EXE-60-2025 titled as “Manoj Cotton Oil Vs. Unit Oswal Cotton Spinning Mills”, whereby conditional warrants of arrest had been issued.

2. Learned counsel for the petitioners has submitted that in the present case, prior to the passing of the decree dated 17.12.2018, which is being executed, an order dated 30.10.2018 was passed by the National



Company Law Tribunal, Chandigarh Bench, Chandigarh with respect to defendant No.1/company in a petition filed under Section 7 of the Insolvency and Bankruptcy Code, 2016. It is further submitted that Moratorium in terms of sub-section (1) of Section 14 of the Code was declared and it was specifically observed that the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any Court of law, was to be stayed. It is submitted that on 13.12.2019, defendant No.1/company was ordered to be liquidated by the National Company Law Tribunal, Chandigarh Bench, Chandigarh. It is further submitted that the address of the petitioners which was given in the suit was the same as the address of the company regarding which an order of moratorium had already been passed and it is submitted that for the said reason the petitioners were not duly served in the present execution proceeding.

3. It is submitted that the present execution proceeding is the third execution proceeding, inasmuch as, in the first execution proceeding, show cause notice was issued to the petitioners but since the correct address could not be given, thus, the said execution was withdrawn on 21.04.2023 and in the second execution petition, show cause notice was issued but the same also met with the same fate and the execution was withdrawn. It is stated that in the present third execution application which was filed, the respondent/decreed holder had filed an application under Order 21 Rule 37 CPC which came for hearing for the



first time on 09.10.2025 and the Executing Court without issuing any show cause notice, as is mandated under Section 51 CPC and Order 21 Rule 37 CPC, straightway issued the conditional warrants against the petitioners on 09.10.2025. Since the said conditional warrants were not executed, thus, similar orders were passed on 06.12.2025 and 24.12.2025. It is submitted that at any rate, the impugned orders deserve to be set aside as the same are in violation of provisions of Section 51 and Order 21 Rule 37 CPC and it was incumbent upon the Executing Court to have first issued show cause notice and to have granted an opportunity of hearing to the petitioners before proceeding further in the matter.

4. Learned counsel for respondent No.1, on the other hand, has submitted that the petitioners had knowledge of the first two execution proceedings, inasmuch as, the petitioners themselves had filed an application for staying the said proceedings. It is further submitted that in the earlier execution petitions, the petitioners had not appeared in spite of directions issued to them to appear in person. It is further submitted that respondent No.1 has an answer to every argument raised on behalf of the petitioners on the merits of the case. It is fairly submitted that in view of provisions of Section 51 and Order 21 Rule 37 CPC, in case the petitioners undertakes to appear before the Executing Court on the next date of hearing, then, the Executing Court be directed to comply with the said provisions and the conditional warrant against the petitioners be not executed. It is submitted that, however, the passing of the present order should not be construed as an expression on the merits of the case and the



Executing Court be directed to take into consideration all the submissions to be made by the decree holder also.

5. During the course of arguments, a very fair stand has been taken on behalf of the petitioners as well as on behalf of respondent No.1 and on the basis of the consensus arrived, the present revision petition is disposed of with the following directions/observations: -

- (i) The impugned orders (Annexures P-1 to P-3), to the extent that conditional warrant has been issued against the petitioners, are set aside.
- (ii) Petitioners, through their counsel, would appear before the Executing Court on 15.05.2026 which is the next date of hearing.
- (iii) It would be open to the Executing Court to proceed as per the provisions of Section 51 and Order 21 Rule 37 CPC which provisions are herein below: -

“Section 51 - Powers of Court to enforce execution.

Subject to such conditions and limitations as may be prescribed, the Court may, on the application of the decree-holder, order execution of the decree

- (a) *by delivery of any property specifically decreed;*
- (b) *by attachment and sale or by the sale without attachment of any property;*
- (c) *by arrest and detention in prison [for such period not exceeding the period specified in section 58, where arrest and detention is permissible under that section];*
- (d) *by appointing a receiver; or*
- (e) *in such other manner as the nature of the relief granted may require :*

[Provided that, where the decree is for the payment of money, execution by detention in prison shall not be ordered



unless, after giving the judgment-debtor an opportunity of showing cause why he should not be committed to prison, the Court, for reasons recorded in writing, is satisfied--

(a) that the judgment-debtor, with the object or effect of obstructing or delaying the execution of the decree,--

(i) is likely to abscond or leave the local limits of the jurisdiction of the Court, or

(ii) has, after the institution of the suit in which the decree was passed, dishonestly transferred, concealed, or removed any part of his property, or committed any other act of bad faith in relation to his property, or

(b) that the judgment-debtor has, or has had since the date of the decree. the means to pay the amount of the decree or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same, or

(c) that the decree is for a sum for which the judgment-debtor was bound in a fiduciary capacity to account.

Explanation. In the calculation of the means of the judgment-debtor for the purposes of clause (b), there shall be left out of account any property which, by or under any law or custom having the force of law for the time being in force, is exempt from attachment in execution of the decree”

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Order 21 Rule 37 reads as under--

"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."

6. It is made clear that the present order should not be construed as an expression on the merits of the case and it would be open to both the parties to raise all pleas in support of their respective cases before the Executing Court, which would be decided independently, in accordance with law.

April 29, 2026
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No