



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

(111)

CR-5511-2025 (O&M)
Date of Decision: **29.04.2026**

SHRI OM

... Petitioner

Versus

UNION BANK OF INDIA (ERSTWHILE CORPORATION BANK)

... Respondent

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

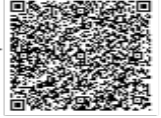
Present:- Mr. Jitendera Nara, Advocate
for the petitioner.

Mr. Gaurav Goel, Advocate and
Mr. Tarlok Singh, Advocate
for the respondent-Bank.

VIRINDER AGGARWAL, J. (Oral)

1. The present civil revision petition has been instituted under Article 227 of the Constitution of India, invoking the supervisory jurisdiction of this Court, for setting aside order dated 20.05.2024 (**Annexure P-4**), whereby the petitioner was proceeded against ex parte without due service of notice, and order dated 04.07.2025 (**Annexure P-10**) vide which warrants of arrest were issued without issuing show cause notice and impugned-order dated 01.08.2025 (**Annexure P-12**) whereby application for setting aside ex-parte order and order issuing warrant of arrest was dismissed.

1.1. The costs of ₹5,000/- imposed upon the respondent on the previous date of hearing have been duly deposited by learned counsel for



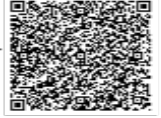
the respondent, and a photocopy of the receipt evidencing such deposit has been produced and the same is taken on record today.

2. A succinct narration of the relevant facts reveals that the petitioner is a judgment-debtor in a suit instituted by the respondent–Bank for recovery of ₹18,37,324.17/- along with costs and interest, to be realized through the sale of mortgaged property, which culminated in a decree in favour of the Bank. Pursuant thereto, the respondent–decree holder initiated execution proceedings.

2.1. In the execution petition, the petitioner was purportedly shown to have been served through his father on 20.05.2024; however, it is an undisputed position that the petitioner’s father had already expired prior to the said date, rendering such service ex facie invalid. The petitioner subsequently moved an application seeking setting aside of the ex parte proceedings, which, however, came to be dismissed vide the impugned order dated 01.08.2025.

2.2. In the interregnum, the mortgaged property was ordered to be put to sale for realization of the decretal amount; however, upon repeated failure to effect such sale, the respondent–Bank moved an application under Order XXI Rules 37 and 38 of the Code of Civil Procedure, 1908 (‘CPC’ for short), seeking issuance of conditional warrants against the petitioner–judgment debtor, which was allowed vide order dated 04.07.2025.

2.3. Aggrieved by the aforesaid orders, namely the ex-parte proceedings, the dismissal of the application for setting aside the same,



and the issuance of warrants, the petitioner has approached this Court by way of the present revision petition.

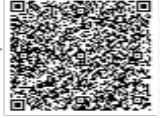
3. The respondent–Bank entered appearance through learned counsel and contested the petition.

4. I have heard learned counsel for the parties at length and have carefully perused the record of the case with their able assistance.

5. The gravamen of the petitioner’s submission is that he was erroneously proceeded against ex parte vide order dated 20.05.2024 on the basis of a report submitted by the Process Server, reflecting service upon him through his father. It is, however, supported by a duly placed death certificate (Annexure P-4) that the petitioner’s father had expired on 20.05.2004, thereby rendering the alleged service wholly illusory and legally unsustainable.

5.1. The petitioner moved an application for recall of the said ex-parte order; however, the same was dismissed by the learned Executing Court vide order dated 01.08.2025, primarily on the premise that the application was filed with a view to delay the execution proceedings and evade arrest, particularly in light of the issuance of arrest warrants. The learned Executing Court further directed that the petitioner would be permitted to participate in the proceedings only upon surrender and furnishing security towards the decretal amount.

5.2. A perusal of the impugned order dated 04.07.2025 reveals that the Executing Court recorded the failure of the auction process initiated on 19.06.2025, owing to the absence of prospective bidders. Consequent

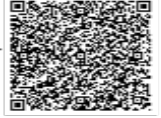


thereto, an application under Order XXI Rules 37 and 38 of the CPC was moved by the decree-holder, seeking issuance of conditional warrants against the judgment-debtor, which came to be allowed, and such warrants were directed to be executed for 01.08.2025.

5.3. It is trite that the provisions of Order XXI Rule 37 CPC mandate prior issuance and service of a show cause notice upon the judgment-debtor, calling upon him to explain as to why he should not be committed to civil imprisonment. The said requirement is not merely procedural but is inextricably linked with the fundamental right to life and personal liberty enshrined under Article 21 of the Constitution of India, which prohibits deprivation of liberty except in accordance with procedure established by law.

5.4. In the present case, the issuance of conditional warrants vide order dated 04.07.2025, without compliance with the mandatory requirement of prior notice, constitutes a clear infraction of both statutory provisions and constitutional safeguards. Equally untenable is the order dated 01.08.2025, whereby the petitioner has been denied the right to participate in the execution proceedings without due consideration of his specific plea regarding invalid service and without adjudicating upon the authenticity of the alleged service effected through a deceased person.

5.5. While it is undeniable that execution proceedings are required to be conducted expeditiously, and any dilatory tactics on the part of a judgment-debtor must be discouraged, such considerations cannot justify a



departure from settled procedural safeguards or constitutional mandates. Expediency cannot be permitted to override legality.

5.6. It has been contended on behalf of the respondent–Bank that the petitioner had knowledge of the execution proceedings, as he was allegedly present during the auction proceedings held on 11.11.2024 and had appended his signatures to the attendance record. Even if such knowledge is presumed, and some degree of negligence is attributable to the petitioner, the same cannot operate to extinguish or dilute his statutory and constitutional rights.

5.7. In view of the foregoing analysis, the present revision petition deserves to be **allowed**. Accordingly, the impugned orders dated 04.07.2025 (**Annexure P-10**) and 01.08.2025 (**Annexure P-12**) are hereby set aside. The petitioner–judgment debtor is permitted to participate in the execution proceedings and shall be at liberty to appear before the learned Executing Court and ***show cause***, in accordance with law, ‘*as to why coercive steps, including issuance of conditional warrants, be not taken against him?*’?

6. It is, however, clarified that the observations made here-in-above are confined strictly to the adjudication of the present controversy and shall not be construed as an expression of opinion on the merits of the underlying dispute. Nothing stated herein shall prejudice or influence the rights, claims, or contentions of the parties in the main proceedings or in any collateral proceedings, nor shall it be treated as a conclusive determination of any substantive question of fact or law.



7. Consequent upon the final adjudication of the present petition, all pending miscellaneous applications, if any, shall stand disposed of by necessary implication. No further orders are required to be passed in that regard.

29.04.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

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