
(2012) 05 P&H CK 0077
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 6922 of 2011

Narain Dass

APPELLANT

Vs

The Shahabad Coop. Sugar Mills Ltd. and others

RESPONDENT

Date of Decision : 28-05-2012

Acts Referred:

Citation : (2012) 05 P&H CK 0077

Hon'ble Judges : M.M.S. Bedi, J

Bench : Single Bench

Advocate : Arvind Singh in C.R. No. 6922 of 2011 and C.R. No. 7254 of 2011 and Mr. R.C. Chaudhary in C.R. No. 7312 of 2011, for the Appellant; Rajesh Arora, Advocate, for the Respondent

Judgement

M.M.S. Bedi, J.—This order will dispose of Civil Revision No. 6922 of 2011 filed by Narain Dass, Civil Revision No. 7254 of 2011 filed by Naresh Kumar and Civil Revision No. 7312 of 2011 filed by Suraj Bhan as similar questions of law are involved in these three petitions. All the writ petitioners are Judgement Debtors facing execution proceedings. Vide impugned orders, Narain Dass, had been arrested. Counsel for the petitioners submit that vide impugned orders, the warrants of arrest have been issued against the petitioners without following the due process of law. No notice had earlier been issued giving an opportunity to contest the execution application. Counsel for the respondent has fairly contended that the only endeavour of the decree holder - respondent is to recover the decretal amount from the petitioners. Since the petitioners had been evading appearance before the Executing Court to delay the proceedings, the impugned order has been passed.

2. After hearing Counsel for the petitioners and Counsel for the respondent, I am of the considered opinion that the Executing Court has rightly issued warrants of arrest after being satisfied that the petitioners had been making an attempt to delay the proceedings. The orders of arrest warrants against the petitioners are set aside subject to the condition that they will appear before the Executing

Court on 28.07.2012 the date already fixed before the Executing Court in person. However, the Executing Court will not make any order to send them in custody, but liberty will be granted to them to either pay the decretal amount or to contest the execution application in accordance with law. It is made clear that in case the petitioners do not appear before the Executing Court on 28.07.2012, these petitions will be deemed to have been dismissed. It is also directed that the petitioners will not adopt evasive approach to delay the proceedings subject to any further order passed by any superior Court. The trial Court shall make endeavour to execute the money decree by initially taking steps for recovery from the property of the petitioners and in case it is not feasible to sell the property of the petitioners after attachment in accordance with law.