
(1997) 12 P&H CK 0088

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 5049 and Civil Miscellaneous No. 13177-CII of 1997
(O and M)

Vinod Kumar

APPELLANT

Vs

Food Corporation of India

RESPONDENT

Date of Decision : 15-12-1997

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 58(2)

Citation : (1998) 3 CivCC 228 : (1998) 120 PLR 178(1) : (1998) 1 RCR(Civil)
424

Hon'ble Judges : Sat Pal, J

Bench : Single Bench

Advocate : S.K. Mittal, for the Appellant; R.S. Longia, for the Respondent

Final Decision : Allowed

Judgement

Sat Pal, J.—In view of the facts stated in the application, the application is allowed and delay of 3 days in filing the revision petition is condoned. CM stands disposed of.

2. This petition has been directed against the order dated 2.8.1997 passed by Additional Civil Judge, Sr. Division, Dhabwali. Vide this order, the learned Additional Civil Judge has authorised the decree-holder to take help of SHO, PS city Dhabwali in getting the warrant of arrest on judgment-debtor executed. Notice of this petition was issued to the respondent. Respondent has been served.

3. From the impugned order, I find that an application under Order 21 Rule 37 CPC for sending the judgment-debtor to civil prison was filed before the learned trial Court and the impugned order has been passed on the said application. Mr. Mittal, learned counsel for the petitioner/judgment-debtor submits that the petitioner had already been sent to civil prison on 19th December, 1991 for a period of 30 days vide the order passed by the learned trial Court and he cannot be sent to Civil prison for the second time with regard to the same decree, u/s

58(2) CPC. Learned counsel for the decree-holder, however, submits that the petitioner should present himself before the trial Court so that the trial Court, if necessary, may like to record his statement with regard to any moveable or immovable property available with him. Mr. Mittal, however, submits that the judgment-debtor is having no movable or immovable property.

4. After hearing learned counsel for the parties and keeping in view Section 58(2) CPC, I am of the opinion that the impugned order cannot be sustained. Accordingly, the petition is allowed and the impugned order is set aside. The petitioner is, however, directed to be present in the trial Court on the next date of hearing so that in case the learned trial Court wants to record his statement, the same can be recorded. It is, however, made clear that the petitioner cannot be sent to civil prison for the second time when he presents himself before the trial Court.