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AT CHANDIGARH**

**CR No. 6085 of 2025 (O&M)  
DATE OF DECISION: 03.09.2025**

**RAMGOPAL SINGH**

**.....PETITIONER**

**Vs.**

**BABU RAM AND OTHERS**

**.....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL**

Present: Mr. Peeush Gagneja, Advocate,  
for the petitioner.

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**AMARINDER SINGH GREWAL, J.**

1. Prayer in the present Civil Revision Petition filed under Article 227 of the Constitution of India is for setting aside the impugned order dated 16.07.2025 (Annexure P-1), passed by the learned Civil Judge (Senior Division), Abohar, in Execution Application No. EXE/194/2019, instituted on 11.07.2019, titled *Smt. Phula Rani v. Veerpal Kaur and others*, as well as the impugned order dated 20.08.2025 (Annexure P-4), whereby the learned Executing Court dismissed the objections filed by the petitioner and ordered issuance of conditional warrants of arrest for the purpose of recovery of the decretal amount against him.

2. The brief facts of the case are that a suit for specific performance was filed and decreed on the basis of an agreement to sell dated 20.10.2005, executed by Naib Singh, son of Mukand Singh, resident of Village Bishnpura, Tehsil Abohar, District Fazilka (father of petitioner No. 1), to sell his agricultural land measuring 27 'Kanals' and 16.5 'Marlas', i.e. half share of the land situated in the area of Bisanpura, for a



total consideration of ₹8,11,750/-, i.e. ₹7,79,750/- for the said land and the remaining consideration for the 'malwa' of 'dhani', out of which Naib Singh allegedly received a sum of ₹3,00,000/- as earnest money on the date of the agreement and further ₹1,00,000/- on 24.11.2005. The stipulated date for execution and registration of the sale deed was fixed as 31.03.2006.

2.1 In the said suit for specific performance, there was an alternative prayer for a decree for recovery of ₹8,00,000/-, i.e. ₹4,00,000/- as earnest money and ₹4,00,000/- as damages. The suit was decreed in favour of *Smt. Phula Rani* on 19.07.2012 for recovery of ₹8,00,000/-.

2.2 An appeal was filed against the aforesaid decree but the same was dismissed for want of prosecution on 24.03.2014. Thereafter, an application for restoration of the appeal was filed on 22.01.2015 along with an application under Section 5 of the Limitation Act on 23.08.2017. However, the said application under Section 5 of the Limitation Act was dismissed on 02.12.2017 by the learned Additional District Judge, Fazilka. Another application for setting aside the dismissal order dated 24.03.2014 was also dismissed by the learned Additional District Judge, Fazilka, vide order dated 02.12.2017. Subsequently, an application, dated 11.07.2019 (Annexure P-2) under Order XXI Rule 11 of the CPC was filed by the respondents for execution of the decree.

3. Learned counsel for the petitioner submits that in the execution proceedings, objections were taken that the petitioner was neither a party to the original suit nor a party to the decree, that his name was mentioned under mistaken identity as a minor, and that he had no privity of



contract, interest, or connection with the transaction or subject matter of the suit. In fact, the petitioner had already attained majority on the date of filing of the execution application, since his date of birth is 04.11.1993. However, these aspects were never considered by the learned Executing Court while passing the impugned order dated 16.07.2025 (Annexure P-1). At the same time, it is submitted that while dismissing the objections of the petitioner, the learned Additional Civil Judge (Senior Division), Abohar, straightaway issued conditional warrants of arrest for recovery of the decretal amount, which is contrary to the provisions of law. Thus, it is submitted that the impugned orders dated 16.07.2025 (Annexure P-1) and 20.08.2025 (Annexure P-4) deserve to be set aside.

4. I have heard learned counsel for the revisionist-petitioner and perused the paper-book.

5. In view of the order proposed to be passed, notice is not being issued to the respondents as it would delay the proceedings besides entailing additional expenses to the respondents.

6. The Hon'ble Supreme Court of India in *Jolly George Varghese and another v. The Bank of Cochin*, AIR 1980 SC 470, held that where the judgment-debtor has no means to pay, and in the absence of *mala fides* or dishonesty, arrest and detention in execution of a money decree would be violative of Article 11 of the International Covenant on Civil and Political Rights and Article 21 of the Constitution of India.

7. Coming to the facts of the present case and in view of the judgment of the Hon'ble Supreme Court in *Jolly George Varghese's case* (*supra*), this Court is of the considered opinion that though the learned



lower Court dismissed the objections of the petitioner in its order dated 16.07.2025 (Annexure P-1) and observed that the petitioner, being admittedly the son of late Sh. Naib Singh, cannot wriggle out of his liability and that it is not the case that the objector is a minor as his date of birth is 04.11.1993, the fact remains that the Court did not record any finding that the petitioner was possessed of sufficient means and was deliberately avoiding payment of the decree amount. Before issuing conditional warrants of arrest against the petitioner, the learned Executing Court was required to arrive at a categorical conclusion that the judgment-debtor, despite having sufficient means, was intentionally not discharging his liability under the decree.

8. Accordingly, the warrants of arrest could not have been issued, and the petitioner cannot be sent to civil imprisonment. In light of the above discussion, the present revision petition is allowed, and the impugned orders dated 16.07.2025 (Annexure P-1) and 20.08.2025 (Annexure P-4), passed by the learned Civil Judge (Senior Division), Abohar, in Execution Application No. EXE/194/2019, are hereby set aside.

9. The petitioner-judgment-debtor shall put in appearance before the learned Executing Court on the date fixed and shall be at liberty to raise all pleas as noticed hereinabove.

10. Pending miscellaneous application(s), if any, shall also stand disposed of.

**SEPTEMBER 03, 2025**  
nitin

**(AMARINDER SINGH GREWAL)**  
**JUDGE**

Whether Speaking	Yes
Whether Reportable	No