

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2025:PHHC:110762



(129)

CR-5639-2025

Decided on: 21.08.2025.

Baldev Singh

.....Petitioner(s)

Versus

State Bank of India

.....Respondent(s)

CORAM : HON'BLE MRS.JUSTICE SUDEEPTI SHARMA

Present: Mr.Ramesh Sharma, Advocate, for the petitioner.

SUDEEPTI SHARMA, J.

1. The present revision petition is filed for setting aside order dated 17.05.2025 (Annexure P-4) passed by Learned Additional Civil Judge, Senior Division, Abohar, District Fazilka vide which, conditional warrants have been issued against the petitioner in a Civil Suit filed by the respondent for recovery of money from the petitioner, which was decreed in favour of the respondent.

2. Learned counsel for the petitioner contends that without invoking the provisions of Sections 51 & 60, Code of Civil Procedure, 1908, Learned Additional Civil Judge, Senior Division, Abohar has passed the impugned order dated 17.05.2025 whereby conditional warrants have been issued against the petitioner for 03.07.2025. He further contends that on 03.07.2025, again fresh conditional warrants were issued against the petitioner for 05.08.2025. He, therefore, prays that the land of the petitioner

which is mortgaged with the respondent-Bank may be put to auction for recovery of the amount due to the respondent-Bank.

3. I have heard learned counsel for the petitioner and perused the whole file of the case with his able assistance.

4. A perusal of the record shows that undisputedly respondent filed suit for recovery of Rs.6,24,590/- against the petitioner which was decreed in its favour and the execution was filed by the respondent on 01.04.2022. Thereafter, sale warrants were issued but the same could not be executed. An application under Order 21 Rule 37 CPC was moved. Notice was issued to the petitioner and arrest warrants of imprisonment were issued. Thereafter, reply to application under Order 21 Rule 37 CPC was filed and the matter was adjourned. Vide order dated 21.08.2024, application under Order 21 Rule 37 CPC was disposed of by holding that perusal of previous orders reveals that earlier sale warrants were also issued but could not be executed. In view of circumstances of the case and reply of Judgment-Debtor, the application was disposed of. Thereafter, sale warrants qua sale of attached property of Judgment-Debtor was issued. On 06.11.2024, counsel for the parties stated at Bar that there are chances of compromise between the parties and the appeal was put before the National Lok Adalat to be held on 14.12.2024. On 14.12.2024, compromise could not be effected before the National Lok Adalat. Thereafter, in all the orders, it is stated that there are chances of compromise and let the matter be sent to National Lok Adalat, to be held on 10.05.2025. Vide impugned order dated 17.05.2025, conditional warrants against the Judgment-Debtor were issued for 03.07.2025. On 03.07.2025, fresh conditional warrants were issued against the petitioner for 05.08.2025.

5. Section 51 of Code of Civil Procedure, 1908 reads about powers of Court to enforce execution. Same is reproduced as under:

“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 3[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.”

6. A perusal of Proviso to Section 51 CPC shows that where the decree is for 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 that the Judgment-Debtor with the object or effect of obstructing or delaying the execution of decree is likely to abscond or leave the local limits of jurisdiction of the Court or has, after the institution of the suit in which 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 that the Judgment-Debtor had since the date of decree, the means to pay the amount of decree and refuses or neglected to pay the same. Whereas, in the present case, the application filed under Order 21 Rule 37 CPC was disposed of by observing that the petitioner had specifically stated that he had never caused any obstruction or hindrance in the execution proceedings and it was further observed that attachment of property was already effected and perusal of previous orders reveals that earlier sale warrants were also issued but could not be executed and thereafter, sale warrants qua the sale of attached property of the petitioner were issued vide order dated 21.08.2024.

7. Further, Section 60 CPC reads about the property liable to attachment and sale in execution of decree. Same is reproduced as under:

“60. Property liable to attachment and sale in execution of decree.—

(1) The following property is liable to attachment and sale in execution of a decree, namely, lands, houses or other buildings, goods, money, bank-notes, cheques, bills of exchange, hundis, promissory notes, Government securities, bonds or other securities for money, debts, shares in a corporation and, save as hereinafter mentioned, all other saleable property, movable or immovable, belonging to the judgment-debtor, or over which, or the profits of which, he has a disposing power which he may exercise for his own

benefit, whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf.”

8. In view of the above, the property which was mortgaged by the petitioner with the bank can be put to auction and sold for the recovery of the amount due to the bank. In view of the same, I find merit in the present petition and the same is allowed. Order dated 17.05.2025 (Annexure P-4) passed by Learned Additional Civil Judge, Senior Division, Abohar, District Fazilka is set aside and the said officer is directed to proceed as per Sections 51 & 60 CPC, as reproduced above.

9. With the above observations, the instant revision petition stands allowed.

August 21, 2025
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(SUDEEPTI SHARMA)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether Reportable :	Yes/No