



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

**CR-6796-2025 (O&M)
DECIDED ON: 25.09.2025**

YFC PROJECTS PRIVATE LIMITED

.....PETITIONER

VERSUS

M/S REACH INTERNATIONAL

.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Kunal Dawar, Advocate and
Mr. Saurav Bajaj, Advocate
for the petitioner.

MANDEEP PANNU, J (ORAL)

1. The petitioner has filed the present revision petition assailing two orders dated 17.09.2025 passed by the learned Civil Judge (Junior Division), Gurugram, in Execution Petition No. 388 of 2024. By the first order, the objections filed by the petitioner/judgment-debtor were dismissed. By the second order of even date, warrants of attachment and warrants of possession were issued.

2. Keeping in view the limited nature of the prayer, notice to the respondent is dispensed with. I have heard learned counsel for the petitioner at length and carefully examined the record.

3. Learned counsel for the petitioner argued that several of its properties are already mortgaged with banks and proceedings under the SARFAESI Act have been initiated. It was contended that under Order 38 Rule 58 CPC, mortgaged properties cannot be attached. It was further argued

that the list of properties placed for attachment already stand covered by orders of the District Magistrate, Gurugram, under the SARFAESI Act and, therefore, cannot be attached in execution.

4. I find this contention untenable. A perusal of the first impugned order reveals that in para No. 6, the learned Executing Court has already recorded the clarification given by the decree-holder that it is willing to provide a breakdown of fresh assets which are not under SARFAESI proceedings. Thus, the apprehension expressed by the petitioner/judgment-debtor has been adequately addressed. Once the decree-holder expressed willingness to identify properties free from encumbrances, there is no ground to interfere.

5. Consequently, there is no merit in the challenge to the first impugned order dated 17.09.2025 whereby the objections of the judgment-debtor were dismissed. The same is upheld.

6. Turning now to the second impugned order of even date, I find that once the objections were dismissed, the Executing Court was indeed required to proceed with the execution. A decree cannot be allowed to remain a mere paper decree, and issuance of warrants of attachment of identified properties would be the natural consequence.

7. However, the said order suffers from serious infirmities. The Executing Court did not clarify which properties were to be attached despite observing in the earlier order that a fresh list of assets not covered under SARFAESI proceedings was to be provided. More significantly, in the same order, after directing issuance of warrants of attachment, the Executing Court also proceeded to issue warrants of possession and authorised the

bailiff and the Duty Magistrate to break open locks and hand over the possession of the property to the decree-holder.

8. This approach is patently erroneous. The execution petition arises out of a money decree. In such execution, the procedure under Order 21 CPC contemplates attachment and, if required, sale of the judgment-debtor's property to satisfy the decree. Issuance of warrants of possession without even completing the process of attachment is wholly impermissible and contrary to law. The order conflates two distinct remedies and is legally unsustainable.

9. In view of the above discussion, the second impugned order dated 17.09.2025 is set aside. The learned Executing Court is directed to proceed afresh in accordance with law, after obtaining a fresh list of properties from the decree-holder which are not subject to proceedings under the SARFAESI Act, and thereafter follow due process prescribed under CPC.

10. In the result, the present revision petition is partly allowed. The first impugned order dated 17.09.2025, whereby the objections of the judgment-debtor were dismissed, is upheld. The second impugned order of the same date, whereby warrants of attachment and warrants of possession were simultaneously issued, is set aside. The Executing Court shall pass a fresh order in terms of the observations made hereinabove.

11. All pending miscellaneous application(s), if any, stands disposed of.

(MANDEEP PANNU)
JUDGE

25.09.2025

Poonam Negi

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No