

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****118****CR-5916-2025 (O&M)
Date of decision: 29.08.2025****M/s. Nishaj Electric****...Petitioner(s)****Vs.****M/s. Arkaylite Electricals, New Delhi****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- Mr. Mohit Kumar, Advocate
for the petitioner.***********NIDHI GUPTA, J.**

Present Civil Revision under Article 227 of Constitution of India has been filed by the defendant/judgment debtor seeking setting aside of the impugned order dated 04.07.2025 (Annexure P-1) passed by Ld. Civil Judge(Junior Division), Barnala in case No. EXE/70/2021 dated 29.09.2021, whereby Ld. Civil Judge (Junior Division) didn't consider the reply of the petitioner and proceeded further and directed petitioner to file affidavit under Order 21 Rule 41 CPC; and subsequently issued warrants of arrest despite pendency of transfer petition, which is totally arbitrary and illegal.

2. Brief facts of the case are that the respondent/plaintiff had filed a suit against the petitioner for recovery of Rs.2,20,455/- against the petitioner which was decreed exparte vide judgment and decree



dated 19.12.2020 (Annexure P-2) for an amount of Rs.1,65,756/- alongwith interest @ 9% per annum. Thereafter, execution of the judgment and decree dated 19.12.2020 was transferred to the learned District Court, Barnala on the application of the respondent made under Order 21 Rule 6 CPC as per transfer certificate dated 16.09.2021 (Annexure P-2A) on the ground that the judgment debtor resides or has property within the local limits of jurisdiction of the said Court. Subsequently, respondent/decree holder had filed present execution petition in which summons were issued to the petitioner. During pendency of the execution petition, the respondent/decree holder filed an application dated 15.12.2022 (Annexure P-3) for impleading legal heirs of Pawan Kumar, Proprietor of the petitioner-firm. The petitioner filed reply dated 28.02.2023 (Annexure P-4) to the said application and raised objections that the judgment and decree dated 19.12.2020 is a nullity as at the time of passing of decree, Pawan Kumar had already died on 13.05.2017 and a decree against a dead person is a nullity. Thereafter, the said application (Annexure P-3) was withdrawn by the respondent vide order dated 28.04.2025 (Annexure P-4A). Subsequently, the respondent filed an application under Order 21 Rule 37 CPC dated 20.05.2025 (Annexure P-5) seeking civil imprisonment of the petitioner. Reply dated 29.05.2025 (Annexure P-6) was filed by the petitioner. Vide the impugned order dated 04.07.2025 (Annexure P-1), petitioner has been directed to file affidavit under Order 21 Rule 41 CPC.



3. It is submitted by learned counsel for the petitioner that the learned Court has committed error of law by not considering reply of the petitioner to the application under Order 21 Rule 37 CPC. Further, Executing Court has moved ahead with the execution of the decree despite notice issued by the Id. District Judge in a transfer application.

4. It is accordingly prayed that the present Civil Revision be allowed; and the impugned order be set aside.

5. No other argument is made by Id. counsel for the petitioner.

6. Heard learned counsel and perused the case file in great detail. I find no merit in the submissions made on behalf of the petitioner.

7. Vide the impugned order, before relegating the petitioner to civil imprisonment, the learned Executing Court has merely directed the petitioner to file his affidavit under Order 21 Rule 41 CPC to ascertain the movable or immovable assets of the petitioner. Needless to say, no error can be found, as the said direction is not only legal but also just and fair. Argument of the petitioner that the said order has been passed while ignoring the fact that notice has been issued by the learned District Judge in the transfer application, is also liable to be rejected in view of the fact that notice was issued in the transfer petition vide order dated 11.08.2025 (Annexure P-9), which is after passing of the impugned order.



8. In view of the same, no ground is made out to interfere in the impugned order dated 04.07.2025 (Annexure P-1) and the present Civil Revision Petition stands dismissed.

9. Pending application(s), if any, also stand(s) disposed of.

29.08.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No