

EX. 156/23
GAURAV MEHTA Vs. PANKAJ PAHUJA

01.08.2025

Present: Mr. Arjun Yadav, Ld. Counsel for the decree holder.
Mr. Mihir Dawar, Ld. Counsel for the JD.

Vakalatnama is filed by Ld. Counsel for judgment debtor.
Reply to the review application is filed by Ld. Counsel for Decree Holder.

Copy has already been supplied.

Proof of advance service has been filed alongwith the reply.

Application for review is taken up for consideration.

Review is sought of order dated 08.05.2025. On the said date, Ld. Predecessor of the Court directed issuance of warrants of arrest against the Judgment debtor.

It is stated in the application under consideration that no specific and appropriate application u/o 21 Rule 38 of CPC has been filed and no opportunity has been granted to the judgment debtor to explain the situation. It is pleaded that the Judgment debtor is unable to pay the decretal amount due to non-capacity and not due to any deliberate reason.

It is stated that the judgment debtor cannot be sent to imprisonment since he is not in a capacity to make the payment and non-payment is not due to any deliberate act.

For the above reasons, it is prayed that order dated 08.05.2025 be reviewed.

Application has been opposed.

Reply has been filed.

Arguments have been heard and the record has been perused.

At the outset, it is pertinent to note that there is no requirement for filing of application under Order 21 Rule 38 of CPC. The averment that no application for arrest of the Judgment debtor was filed is contrary to the record. An application dated 07.05.2024 with the specific prayer of issuance of warrants of arrest was filed by the Decree Holder. Also, as is required u/o 21 Rule 37 of CPC, the Judgment debtor was given an opportunity to show cause why he be not committed to civil prison.

Despite giving of this opportunity, the Judgment debtor did not disclose any reason for not issuing warrants of arrest against him. He did not even file reply to the application dated 07.05.2024. It has been specifically noted in the order dated 08.05.2025 that reply to the application has not been filed and that the Judgment debtor is deliberately avoiding to pay the decretal amount. It has further been noted that there is no explanation given by the Judgment debtor as to why he be not sent to civil prison.

The application for review is devoid of any merit and is accordingly dismissed with cost of Rs.3,000/- to be paid by the Judgment debtor to the Decree Holder.

On filing of process fee and depositing subsistence allowance, issue warrants of arrest of the Judgment debtor.

To come up before Ld. ACJ on 11.08.2025 and before this Court on 12.09.2025.

(Shirish Aggarwal)
District Judge-03
East District, KKD Courts,
Delhi, 01.08.2025