

Ex. No.68/17

M/s Arora Construction Co. Vs. M/s Atlas Laboratories And
Pharmaceuticals Ltd.

15.01.2024

Present: Mr. Sumit Arora, Ld. Counsel for the decree holder.
Mr. Rajiv Malik, Ld. Counsel for the judgment
debtor through VC.
Mr. Yashovardhan, Ld. Proxy Counsel for the
objector.

Ld. Counsel for the judgment debtor submits that due to illness, Mr. Salil Kapoor is unable to appear before the Court today.

Ld. Counsel for the decree holder submits that Mr. Salil Kapoor is deliberately not appearing before the Court, so that he can avoid disclosing the assets of the judgment debtor. He requests that Mr. Salil Kapoor be detained in civil prison since he has not complied with the direction given under Order 21 Rule 41 (2) of CPC.

Arguments are heard and record is perused.

On 29.03.2023, the application of the decree holder under Order 21 Rule 41 of CPC came up for consideration before Ld. Predecessor of the Court.

The Ld. Predecessor directed the judgment debtor to file reply to the application and to also file affidavit of income and assets.

This Court is of the opinion that since direction has already been passed for filing of affidavit of assets of the judgment debtor, the application under Order 21 Rule 41 of CPC stood disposed off and there is no need for filing of reply to the application.

This is besides the fact that no reply to the application has been filed.

As such, it is in purported compliance of directions given under Order 21 Rule 41 (2) of CPC that affidavit of Mr. Salil Kapoor was filed by the judgment debtor on 27.07.2023.

Ld. Counsel for the decree holder submits that the affidavit does not disclose the assets and liabilities of the judgment debtor and therefore, the affidavit is vague and evasive and in non-compliance of order 21 Rule 41(2) of CPC.

He submits that it is for this reason that on the last date of hearing, Ld. Predecessor of the Court directed Mr. Salil Kapoor to remain present.

The affidavit of Mr. Salil Kapoor dated 27.07.2023 does not disclose the assets of the judgment debtor. Therefore, there is disobedience of order made under Order 21 Rule 41 (2) of CPC. Even cost imposed upon the judgment debtor has not been paid.

Mr. Salil Kapoor has not even bothered to appear before the Court. No medical documents have been furnished which substantiate his submission that he is unwell.

In these circumstances and in exercise of power under Order 21 Rule 41 (3) of CPC, it is directed that on filing of process fee and depositing subsistence allowance, warrants of arrest of Mr. Salil Kapoor be issued for him to be detained in civil prison for a period of three months.

To come up before Ld. ACJ for appointment of bailiff on 01.02.2024 and before this Court on 02.03.2024.

(Shirish Aggarwal)
Additional District Judge-03
Patiala House Courts, New Delhi
15.01.2024