

01.04.2024

Present: Sh. Pramod Tyagi, ld. counsel for DH along with DH.
Sh. Sanjay Gupta & Sh. Sahil Khan, ld. counsels for
JD along with JD.

To the query of the court, it is submitted that there is
no stay of the proceedings of present matter.

Reply to the application under Order XXI Rule 38 &
39 CPC again not filed. The JD has not paid the cost which was
imposed upon him vide order dated 15.01.2024 and 24.02.2024.

The warrant of attachment issued earlier were received
back unexecuted.

Arguments heard on the pending application under
Order XXI Rule 38 & 39 CPC.

The ld. Counsel for the JD opposed the present
application by advancing oral arguments.

Put up for orders in post lunch session.

(KAPIL KUMAR)
ADJ-01/NE/KKD/DELHI
01.04.2024

In post lunch session.

Present : None.

Vide this order, I shall dispose off the application
under Order XXI Rule 38 & 39 CPC moved on behalf of DH.

It is mentioned in the application by the DH that the
warrants of attachment which were issued in the present matter

remained unexecuted as no valuable property was found. It is submitted that every intention of the JD is to delay the execution of decree in question and as such there is no other option except to issue warrants of arrest against the JD.

Ld. counsel for JD argued that the JD never received any summons of the suit and the notice of the present execution. It is submitted that the JD has nothing with him from which he can pay anything to the DH. It was argued that the present application is liable to be dismissed.

Records perused. Heard.

The submissions of ld. Counsel for JD that the JD never received any summons of the suit is false since it is observed in the judgment dated 31.05.2023 that the defendant had filed the WS and took various preliminary objections. If the JD did not have any notice of the suit, then how he had filed the written statement.

The submissions of ld. Counsel for JD that the JD had no notice of the present execution is again false since an application was moved in the meantime for cancellation of warrants of attachment of the movable property which was disposed off on 08.12.2023 in the presence of JD and his counsel.

This reveals that the JD is making false excuses one after the other just to avoid the execution of the decree. This is also important to note that twice time was granted to the JD to file the reply to the present application subject to the costs but those costs still not paid.

The decree under execution is a money decree. Considering the conduct of the JD, there is no other option but to

issue the warrants of arrest of the JD. Accordingly, let warrants of arrest be issued against the JD on the steps taken by the DH. Subsistence allowance be deposited, as per rules. Application is disposed off accordingly.

Put up on 22.05.2024.

(KAPIL KUMAR)
ADJ-01/NE/KKD/DELHI
01.04.2024 sb