

**Item No.01**

**Ex. No.320/2021**

**Devashish Bhattacharya Vs. Shailendra Singh Sidhu**

**03.01.2026**

**Present: None.**

Record perused.

The present is a petition seeking execution of order and decree dated 02.02.2019 passed in CS No.8836/2016, whereby the suit was decreed in terms of settlement whereby defendant/JD agreed to pay the suit amount of Rs.19,50,000/- alongwith interest @ 12% per annum w.e.f. 16.09.2015 till date of payment.

During the course of execution proceedings, JD made a payment of Rs.20 Lakhs as recorded in order dated 16.07.2022.

Vide order dated 13.05.2025, a Show-cause Notice was issued to the JD under Order 21 Rule 37 CPC as to why he should not be committed to civil imprisonment for non-payment of balance decretal amount.

JD filed reply to the aforesaid Show-cause Notice stating inter-alia that despite all the efforts made and due to financial hardships, he was unable to make the payment. Further, he could manage to make the payment of Rs.20 Lakhs to the DH in two installments, one in April, 2022 and second in July, 2022 by sale of his shares in his Demat Account and after seeking financial help from his brother and other friends/relatives.

It is also stated that owing to his financial hardships and inability to pay debts, the JD filed petition under the Insolvency Act before the Competent Court at Gautam Budh

Nagar bearing Insolvency Case No.45 of 2023, wherein notice has been issued to the Creditors including the Decree Holder. The said petition is pending consideration by the Court concerned.

Alongwith the reply, the JD also filed details of his assets i.e. one immovable property i.e. agricultural land situated at Village Nigoh, District Kannauj, Uttar Pradesh with notional value of Rs.8,00,000/- to Rs.10,00,000/-.

The JD has cultivation rights for a land situated at Beed Aswan, Sangrur, Punjab which used to generate negligible income of approximately Rs.4,00,000/- per annum.

The business entity M/s. Elegant Finvest Pvt. Ltd. being run by JD has been notified by RBI as “stopped business of financing”, is non-compliant and has been struck-off by MCA.

With regard to movable properties, the JD has no vehicle or any other movable assets.

He has bank accounts in HDFC Bank bearing account no.13501000027330 and Union Bank of India bearing account no.520101221730415 which have no funds and are not operational. The updated statement of account Annexure-A1 (Colly) was also filed alongwith the reply.

Further, the JD has a Demant Account bearing DP account no.10119124 with HDFC Bank, wherein the total balance as on 21.06.2025 is Rs.4,706/-. The updated account statement is filed as Annexure-A2.

The JD also stated that he is not employed anywhere and his survival is upon the meager agricultural income generated from cultivation land. He has fallen on hard times and has no objection if all his assets are sold off, leaving with him a minimum in order to permit him to survive a life of dignity.

The JD is a senior citizen suffering from medical conditions and underwent stent implantation in his heart and is not financially capable.

Over the time, all the business ventures of JD failed miserably and he suffered huge losses, due to which, he was even divorced by his wife and is constraint to live with his brother and his brother's family in Noida. He is dependent on his brother for fulfilling his day to day needs and he has no means to satisfy the decree.

Having heard the submissions of both the sides and perused the material available on record, I find substance in the contentions of learned counsel for JD.

As per record, vide order dated 03.08.2023, the afore-mentioned bank accounts and Demat account were attached by the learned Predecessor, consequent upon which, the bank statements were filed by the bank officials concerned.

As per the bank account statements of aforesaid banks i.e. HDFC Bank, there was only Rs.3/- in the same and in the Union Bank of India, there was no funds available in the same and same are not operational.

As far as the aforesaid Demat Account with HDFC Bank of JD is concerned, the total balance as on 21.06.2025 was Rs.7,059/- in the said account.

It is not disputed by the Decree Holder that the Judgment Debtor filed an Insolvency Petition before the Court concerned at Gautam Budh Nagar, Uttar Pradesh.

As per Section 55 (3) & (4) of CPC, where a Judgment Debtor is arrested in execution of a decree for the payment of money and is brought before the Court, the Court concerned shall inform him that he may apply to be declared as

insolvent and where a Judgment Debtor expresses his intention to apply to be declared an insolvent, the Court may release him from arrest.

In the present case, the JD has already filed an Insolvency Petition before the concerned Court at Gautam Budh Nagar, Uttar Pradesh, wherein notices to his Creditors including the Decree Holder have already been issued and the said petition is pending disposal.

In view of the above mentioned facts and circumstances, in my considered opinion, there is no ground to commit the JD to civil imprisonment.

Accordingly, the notice under Order 21 Rule 37 CPC stand discharged.

List the case for further proceedings on **05.02.2026**.

**[Kuldeep Narayan]**  
**DJ-02, South-East,**  
**Saket Court, New Delhi**  
**03.01.2026/sk**