

IN THE COURT OF THE DISTRICT JUDGE, PALAKKAD
Present:Sri.K.P.Thankachan., III Additional District Judge

Friday the 19th day of July, 2024
(28th day of Ashadha, 1946 S.E)

EXECUTION PETITION No. 215/2021
R.R.M.P.D No.826/2019

Decree Holder:

M/s. Indus Ind Bank Ltd., New No.115,116, G.N Chetty Road, T. Nagar,
Chennai – 600017. Rep. by Power of Attorney Holder and Legal Executive,
Anon. M.G, S/o. Gopi. M.K, working as Legal Executive, Indus Ind bank Ltd.

By Advocate: Sri. K.A. Kailas

Vs.

Judgment Debtor:

1. Ravindran., S/o. Raman Nair, age not known, Das Villa House, Chunangad
(PO), Ottapalam, Palakkad- 679511.

2. Kesavadas, Achuthan IR, S/o. Achuttan Nair, age not known, Karuthodi
House, Kothayur (PO), Ottapalam, Palakkad – 679522.

By Advocate: JD1 -Exparte. JD 2 -Not entered appearance.

The execution petition filed by the decree holder in the above matter
to realise the decree amount by arrest and detention of judgment debtors,
under Order 21 Rule 37, 38 of the Code of the Civil Procedure.

This Execution petition having come up for hearing on 19-07-2024
and this court on the same day passed the following:-

ORDER

The decree holder seeks for realisation of the decree
amount by the arrest and detention of judgment debtor.

2. Notice under Order 21 Rule 37 C.P.C. was issued to
judgment debtor but he remained exparte.

3. The point that would arise for determination is:

Whether the decree holder's prayer for realisation of the decree amount by the arrest and detention of the judgment debtor is allowable?

4. The power of attorney holder of the decree holder Company was examined as PW1 to prove the means of JD.

5. Heard the decree holder.

6. **The Point:** The decree holder who has obtained an award dated 17-04-2020 for realisation of an amount of ₹82,030/- with interest and costs from JD filed the execution petition for realisation of the decree amount by the arrest and detention of judgment debtor contending that though he has sufficient income and means to pay the decree amount he is neglecting to pay the same. The power attorney holder of the decree holder company filed proof affidavit stating that the judgment debtor is getting monthly income of ₹75,000/- from landed properties and his business. In the affidavit it is also stated that even though the JD has sufficient income and means to pay the decree amount, he is intentionally neglecting to pay the same. It is to be noted that there is absolutely no reason to disbelieve the above version regarding the income and means of judgment debtor. In short it can be concluded that the judgment debtor is having sufficient income and means to pay the decree amount but he is intentionally neglecting to pay the same. In that circumstance, the judgment debtor is liable for arrest and detention for realisation of the decree amount. Hence the decree holder's

prayer for realisation of the decree amount by the arrest and detention of the judgment debtor is allowable. Hence point is found in favour of the decree holder.

In the result, the prayer in the E.P. for realisation of the decree amount by the arrest and detention of the judgment debtor is hereby allowed.

The decree holder shall take steps.

Issue warrant against the judgment debtor.

For return of warrant to 21.08.2024.

Dictated to the Confidential Asst., transcribed and typed by him, corrected and pronounced by me in the open court on this the 19th day of July, 2024.

Addl. District Judge – III

Appendix

Petitioner's witness examined:

PW1	19.07.2024	Anon M.G.
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Petitioner's exhibits marked : Nil

Respondent's witness examined and Exhibits marked : Nil

Sd/-

Addl. District Judge - III

Typed by :Rajagopalan G

Compared by: Sumaya Beegum

Fair / Copies of Order

EP No. 215/2021

Dated: 19-07-2024