

(2025) 12 DEL CK 0010

Delhi HC

Case No: Civil Miscellaneous Petition No. 2376 Of 2025, Civil Miscellaneous Application
Nos. 77292, 77291 Of 2025

Pankaj Saini

APPELLANT

Vs

KI Sharma & Anr.

RESPONDENT

Date of Decision: Dec. 8, 2025

Acts Referred:

- Code of Civil Procedure, 1908- Section 47, Order 21 Rule 50
- Indian Partnership Act, 1932- Section 25

Hon'ble Judges: Girish Kathpalia, J

Bench: Single Bench

Advocate: Anurag Tiwary, Aman Usman

Final Decision: Dismissed

Judgement

Girish Kathpalia, J

1. Petitioner/judgement debtor no. 2 has assailed order dated 27.11.2025 of the learned execution court, whereby his objection under Section 47 CPC to the execution of the money decree was dismissed with cost; and observing that despite having means to pay, the petitioner/judgement debtor no. 2 had opted to ignore the decree, warrants of arrest against him were ordered by way of the impugned order subject to the decree holder taking steps and depositing the subsistence allowance of two weeks.

2. Having heard learned counsel for petitioner/judgement debtor no. 2, I do not find it a fit case to even issue notice. Rather, the present petition is found totally frivolous and filed with the aim to protract the execution proceedings.

3. Broadly speaking, in the proceedings for execution of the money recovery decree dated 15.03.2016 (modified on 03.05.2017), the present petitioner/judgement debtor no. 2 filed objections under Section 47 CPC, claiming that the suit having been filed against partnership firm as defendant no. 1 and the present petitioner as defendant no. 2, the

liability of the present petitioner/judgement debtor no. 2 is not joint and several with defendant no. 1 firm, but limited to his 30% profit share in the partnership business. This objection of the petitioner/judgement debtor no. 2 was rejected by way of the detailed order impugned in these proceedings.

4. Learned counsel for petitioner/judgement debtor no. 2 contends that the impugned order is not sustainable in the eyes of law. It is contended that the learned execution court ought to have proceeded to adjudicate the liability of petitioner/judgement debtor no. 2 as against liability of judgement debtor no. 1/partnership firm, instead of directing the petitioner/judgement debtor no. 2 to satisfy the entire decree.

5. As rightly observed by learned execution court in the impugned order, vide Section 25 of the Partnership Act, every partner is liable jointly and severally with other partners for all the acts of the firm. Further, Order XXI Rule 50 CPC also clearly stipulates that a decree against a partnership firm can always be executed against a person who admits to be one of the partners during the relevant period. It is not in dispute that when the cause of action related to the suit culminating into the decree under execution arose, the petitioner/judgement debtor no. 2 was a partner in the said firm.

6. At this stage, learned counsel for respondent decree holder, appearing on advance intimation also points out that the petitioner/judgement debtor no. 2 had even represented the firm/defendant no. 1 before the trial court.

7. It is also not in dispute that the petitioner/judgement debtor no. 2 shall always have liberty to raise a dispute against the partnership firm/defendant no. 1 by way of a separate suit for recovery of money.

8. So far as the plea of the petitioner/judgement debtor no.2 that the execution court ought to have dealt with the claim of the petitioner/judgement debtor no. 2 against the defendant no. 1/firm in the course of execution proceedings, suffice it to record that the said dispute would be a dispute not arising between the decree holder and the judgement debtor no. 2. Besides, in view of time-bound directions for disposal of execution petitions, the execution court entering into the domain of disputes between the judgement debtors inter-se would lead to the decree holders remaining without fruits of the decree for unnecessarily prolonged period.

9. In view of the above discussion, I am unable to find any infirmity in the impugned order, so the same is upheld.

10. The present petition and the accompanying applications are dismissed with cost of Rs. 10,000/- to be paid by the petitioner/judgement debtor no. 2 to respondent no. 1/decree holder within one week in addition to the cost already imposed in the impugned order.