
(1992) 05 P&H CK 0004
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 1793 of 1991

Jagdish Chander	Vs	APPELLANT
Punjab National Bank and Others		RESPONDENT

Date of Decision : 21-05-1992

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 21 Rule 37, 115

Citation : (1992) 102 PLR 574

Hon'ble Judges : Ashok Bhan, J

Bench : Single Bench

Advocate : G.S. Bawa, for the Appellant; Surjit Kaur Tangri and K.K. Duggal, for the Respondent

Judgement

Ashok Bhan, J.—Punjab National Bank, Plaintiff respondent-decree holder (hereinafter referred to as the decree holder) filed a money suit against the defendant-petitioner judgment debtor (hereinafter referred to as the judgment debtor) A decree in the sum of Rs. 31,232.60 was passed with interest at the rate of 11% in the year 1986 since the amount was not paid, the decree-holder took out execution of the decree. Eight acres of land belonging to the judgment-debtor was attached. The land attached was put to auction but no bidder came forward to purchase the same as according to the decree-holder the judgment debtor was a very influential person and because of that no bidder was ready to come forward and bid for the property in dispute.

2. On the 19th January, 1991, judgment debtor made a statement wherein he undertook to deposit the entire amount with interest and cost on or before April 30, 1991 and in default made himself liable to be sent to Civil Imprisonment. Uptill the stipulated date, the amount was not deposited and the counsel for the judgment-debtor filed an application stating therein that the decretal amount may be recovered by way of auction of the immovable property-of the judgment debtor which already stood mortgaged with the Bank. Executing Court came to a conclusion that the judgment-debtor was bent upon to deprive the decree-holder

of the fruits of his decree and since the judgment debtor did not deposit the money inspite of the undertaking given by him, he was liable to be sent to civil prison. The application filed by the judgment-debtor that the decretal amount be recovered by way of auction of immovable property was rejected. The case was adjourned to May 18, 1991 to secure the presence of the judgment-debtor through warrants of arrest.

3. On the 6th May, 1991, judgment debtor filed an application stating therein that the arrest of the judgment-debtor be stayed because interest beyond 6 per cent could not be recovered in view of certain judgments of this Court. This application has been rejected vide order dated May 18, 1991 which has been attached as Annexure P-3 to this petition. The trial Court again came to a conclusion that the judgment-debtor is trying to avoid the payment of the decretal amount. A further finding was recorded that arrest of the judgment-debtor had not been stayed by the High Court.

Since the judgment-debtor was not present in Court, the Executing Court directed that the warrant of arrest be again issued for May 25, 1991. Aggrieved against the order dated April 30, 1991, and May 18, 1991, the judgment-debtor has filed the present revision petition.

4 Learned counsel for the judgment-debtor argued that the judgment-debtor could not be sent to the civil prison until and unless he was given an opportunity to show cause as to why he should not be committed to civil prison in view of the provisions of Order 21 Rule 37 C. P. C. 1 do not find any substance in this submission of the counsel for the judgment-debtor. Judgment debtor himself had under taken to deposit the decretal amount along with interest and cost on or before April 30, 1991. It was further stated by him that if he fails to deposit the amount in question then he would be liable to be sent to the civil prison. In view of the earlier statement made by him it is evident that he had been given ample opportunity to deposit the decretal amount and he himself had undertaken to deposit the same or in default to be sent to civil prison. Decree remains unexecuted even after a lapse of more than five years Under the circumstances I find no fault with the orders passed by the Executing Court and dismiss the revision petition.

5. Since the judgment debtor is avoiding the execution of the decree and not paying the decretal amount inspite of the undertaking given by him to the executing Court and dragging the proceedings unnecessarily, costs of Rs. 1,000/- are also imposed.