

(1991) 01 P&H CK 0009

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 2818 of 1990

Aman Industries and
Another

APPELLANT

Vs

Punjab Financial
Corporation

RESPONDENT

Date of Decision: Jan. 9, 1991

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 21 Rule 65, Order 21 Rule 66, 21

Citation: (1991) 01 P&H CK 0009

Hon'ble Judges: I.S. Tiwana, J

Bench: Single Bench

Final Decision: Allowed

Judgement

I.S. Tiwana, J.

The petitioner-judgment debtors impugn the order of the executing court i.e. Additional District Judge, Hoshiarpur, dated 15th September, 1990, passed under Order 21 Rule 66, Civil Procedure Code. The reads as follows:

Present: Counsel for the parties.

Reply to the notice u/s 21 Rule 66, CPC be issued.

Now warrant of sale be issued on PF and proclamation charges as under:

Court Notice - 8.10.1990

Spot Notice - 13.10.1990

Sale - 30.10.1990

Report on - 10.11.1990

Sd/ -

A.D.J., Hpr. 15.9.1990.

The challenge is on the ground that it has been passed in a casual and indifferent manner without advertent to the respective stand of the parties concerned. On the face of it the challenge appears to be well merited. This is so, even if the rule is held to be directory and not mandatory. The very opening sentence of the order hardly makes any sense. Non-compliance of various requirements as specified in Rule 65, referred to above, appears to have been made. I find it absolutely essential to make reference to the following observations of their Lordships of the Supreme Court in [Shalimar Cinema Vs. Bhasin Film Corporation and Another](#), , while dealing with the question of fulfilling the requirements of this rule:

But we do wish to say that the court has a duty to see that the requirements of Order XXI Rule 66 are properly complied with. In the words of the Judicial Committee. "In sales under the direction of the Court, it is incumbent on the court to be scrupulous in the extreme". Though it may not be necessary for the court to make a valuation and enter it in the proclamation in every case, it is desirable atleast in cases of sale of valuable property that the court makes its valuation and enter it in the sale proclamation. We think it necessary to add that no action of the court or its officers should be such as to give rise to the criticism that it was done in an indifferent or casual way. We are constrained to make these observations because it was found by the learned Single Judge in present case that there actual was no application under Order XXI Rule 66 and that the sale proclamation was prepared in a routine fashion.

Therefore, I allow this petition and while setting aside the impugned order, referred to above, send the case back to the lower court for proceeding further in accordance with law and the observations made above. Parties are directed through their counsel to appear before the executing court on 31.1.1991. No costs.