

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No. 6091 of 2015 (O&M)
Date of decision: October 1, 2015

Central Bank of India

...Petitioner

Versus

Mr. Ram Rattan alias Rattan Lal and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

1. **Whether Reporters of local papers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest?**

Present: Mr. C.S. Pasricha, Advocate,
for the petitioner.

Mr. Tarunvir Singh Khehar, Advocate with
Mr. Vivek Aggarwal, Advocate,
for the respondents.

K. KANNAN, J. (Oral)

1. The documents filed in court are taken on record. The revision is against the order granting injunction to the respondents restraining the bank from bringing the property for sale in pursuance to the provision under the SARFAESI Act. The suit came to be instituted against the attempt of the bank for enforcing a secured debt created by the mortgagors. The asset secured is a hotel premises built on 1071 square yards.
2. Learned counsel for the petitioner contended that the plaintiffs and defendants' predecessors were common and they have a right over the

property. It is also contended that they were not parties to the mortgage and hence an action for sale cannot be prejudicial to their interest. The trial court did not grant the relief of injunction but the appellate court did.

3. In order that injunction can be maintained against action under the provisions of SARFAESI Act, the plaintiffs need to show a prima facie case of their right to the property. The hotel premises cannot come in a day; nor can there be a situation where the plaintiffs would be having no documents to support the claim to the premises which is being brought to sale. On 17.9.2015, the counsel, who took notice on behalf of the plaintiffs, had the case adjourned to 21.9.2015. On that day, this court specifically recorded the fact that the plaintiffs had no document to support the claim to the building which is being brought for sale. Today, the plaintiffs/respondents say that they have the documents and it is anybody's guess what those documents are. I find this to be a deliberate act to scuttle the sale proceedings brought at the instance of the public sector bank.

4. At this stage, the learned counsel appearing for the respondents says that the respondents have no objection if the hotel premises situated in 1701 square yards is brought for sale. The statement is recorded and the sale proceedings will be brought to the said extent and the building thereon with the necessary frontage and appropriate access to the property. The hotel premises with the necessary appurtenances shall be described as a specific lot already identifiable by boundaries and brought for sale in accordance with law.

5. The impugned order of injunction granted by the lower

appellate court is not supportable. It is set aside and the revision is allowed on the above terms.

October 1, 2015
prem

(K.KANNAN)
JUDGE