

CWP No.23733 of 2014

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.23733 of 2014

Date of Decision: January 06, 2015

Satvinder Kaur

...Petitioner

Versus

Debts Recovery Tribunal-II, Chandigarh & others

...Respondents

CORAM: HON'BLE MR. JUSTICE S. J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Piyush Kant Jain, Senior Advocate with
Mr. Pankaj Gupta, Advocate
for the petitioner.

Mr. I.P.S. Doabia, Advocate
for respondent No.2.

None for respondents No.3 and 4.

S. J. VAZIFDAR, ACTING CHIEF JUSTICE (Oral):

Respondent No.4 is the principal borrower. He carries on business in the name and style of respondent No.3. Respondent No.2 -State Bank of India adopted proceedings under the SARFAESI Act to recover the amount from respondents Nos. 3/4. Respondents Nos. 3/4 filed an S.A. under Section 17 of the SARFAESI Act. It is not necessary to refer to the proceedings and the orders passed therein. Suffice it to note that respondent No.4 purported to sell the property to a third party who, in turn, it is alleged, sold the property to the petitioner. The petitioner thereby claims rights in respect of the property which was mortgaged by respondent No.4 in favour of respondent No.2-Bank. The petitioner is ready and willing to pay the entire dues of respondents Nos.3/4 to the second respondent-Bank. A Demand

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Draft in the sum of ₹10,00,000/- has already been handed-over to the second respondent-Bank. The petitioner has no objection to the Bank encashing the same and appropriating the amount towards the dues of respondents Nos.3/4. The Bank is at liberty to appropriate the amount towards respondents Nos.3/4. The second respondent-Bank will, however, compute the amount and refund the excess amount, if any.

2. It is clarified, however, that this order and the second respondent-Bank appropriating the amount paid by the petitioner towards the dues of respondents Nos.3/4 does not compel the second respondent-Bank to hand over the mortgaged property to the petitioner. The second respondent-Bank will be entitled to return the property alongwith the title deeds in respect thereof to the person who is entitled to the same in law, pursuant to the appropriate orders of the DRT/DRAT/RO or any other appropriate Court or Tribunal. In this regard, parties are at liberty to adopt appropriate proceedings before the DRT/DRAT/RO or any other Court, Tribunal or Authority.

3. This order does not deal with the question of the petitioner's rights and contentions qua respondents Nos.3/4 in any manner whatsoever. The rights of the parties are kept open.

4. The writ petition is, accordingly, disposed of.

(S. J. VAZIFDAR)
ACTING CHIEF JUSTICE

(AUGUSTINE GEORGE MASIH)
JUDGE

January 06, 2015
Harish