

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

**CR-3871-2016 (O&M)
DATE OF DECISION:1.6.2016**

M/S VISTA INDUSTRIES PVT. LTD. Petitioner

VS.

M/S SHEENA EXPORTS AND OTHERS Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Akshay Bhan, Senior Advocate
with Mr. Lokesh Bhola, Advocate
and Mr. Alok Mittal, Advocate
for the petitioner.

Mr. Manish Jain, Advocate
for respondent No.5 .

LISA GILL, J. (ORAL)

This revision petition has been filed challenging order dated 16.5.2016 whereby the appellate Court has set aside order dated 18.11.2015 passed by the learned Civil Judge (Senior Division), Panipat, wherein the respondent-defendant were restrained from dispossessing the plaintiff-respondent from the suit property forcibly and except in due course of law. Consequently, petitioner's application under Order 39, Rules 1 and 2 CPC was dismissed.

The petitioner/plaintiff filed a suit for permanent injunction restraining the defendants from dispossessing it from the suit property except in due course of law. The property in question stood mortgaged

by its owner prior to the lease in the petitioner's favour. Due to default on the part of the owner, proceedings were initiated under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'SARFAESI Act'). District Magistrate, Panipat passed the order under Section 14(1) of the SARFAESI Act on 11.6.2014 for taking possession of the suit property as well as other property of defaulters. The impugned order dated 16.5.2016, declining interim relief to the petitioners has been passed on the basis of the judgment of the Hon'ble Supreme Court in **Harshad Govardhan Sondagar Vs. International Assets Reconstruction Co. Ltd. & Ors., 2014 (3) RCR (Civil) 501, United Bank of India Vs. Satyawati Tandon (2010) 8 SCC 110 and others.**

Mr. Manish Jain, learned counsel for the caveator-respondent No.5 on instructions from Mr. S.G. Kundu, Associate Vice President of respondent No.5, present in Court today, submits that his client is not interested in the eviction of the petitioner from the suit property in pursuance to order dated 11.06.2014 passed by District Magistrate, Panipat. Respondent No.5 should, however, be afforded the liberty to dispose of the property by way of auction etc. along with the petitioner tenant in possession of the property. Respondent No.5 would be satisfied with taking over the symbolic possession of the suit property in question and the petitioner should not cause any hurdles in the taking over of the rest of the property which is the subject matter of order dated 11.6.2014 passed by the District Magistrate, Panipat.

In response, Mr. Akshay Bhan, learned Senior counsel for the petitioner-appellant on instructions, submits that the petitioner has absolutely no truck with any part of the property except the suit property.

It is further submitted that an undertaking of the petitioner shall be filed within two days before this Court, that the petitioner is not concerned with any part of the property except the suit property and does not have any objection to symbolic possession of the property being taken over and the petitioner shall not cause any kind of obstruction in the disposal of the suit property and furthermore the rent of the premises in question shall be paid to respondent No.5.

In view of the stand taken by the petitioner and respondent No.5 through their counsel, this petition is disposed of in terms of the statements as above. It is however clarified that this order shall not have any bearing, whatsoever on the proceedings under the SARFAESI Act or the inter se rights of the petitioner and respondents No.1 and 2. Respondent No.5 would be entitled to the symbolic possession of the suit property and their right to disposal of the property is subject to proceeding under the SARFAESI Act. In case, undertaking as above is not furnished by the petitioner within two days from today, the present petition shall stand dismissed without any further reference. This order shall have no bearing on the merits of the pending suit.

(LISA GILL)
JUDGE

23.05.2016
SwarnjitS