

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Civil Writ Petition No.12794 of 2016
Date of decision: 25th July, 2016

Samrjit Singh Brar and another

....Petitioners

versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Karan Bhardwaj, Advocate for the petitioners.

Mr. A.B.S. Sidhu, Advocate for respondent-Bank.

AJAY KUMAR MITTAL, J. (Oral)

1. Prayer made in the petition is for issuance of a writ in the nature of certiorari for quashing as well as staying the operation of order dated 25.05.2016 (Annexure P-2) vide which the District Magistrate, Moga has directed respondent No.3 to provide police help to respondent No.4 to take possession of the petitioners' residential house. Further, a writ of mandamus has been sought directing respondent No.2 to pass the order afresh after giving an opportunity of hearing to the petitioners.

2. On June 24, 2016, the following order was passed:

'Heard.

No notice was issued by the bank under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

The writ petitioner has challenged the order dated 25.5.2016 passed by the 2nd respondent District Magistrate-cum-Deputy Commissioner, District Moga vide which he has instructed respondent no.3 Senior Superintendent of Police, Moga to provide police help to the 4th respondent Authorized Officer-cum-Chief Manager to take possession of the petitioner's

residential house on the ground that the impugned order is in violation of the principles of natural justice.

Learned counsel appearing for the petitioners submits that the writ petitioners are prepared to liquidate the entire debt. He requests that some breathing time may be given to the writ petitioner to pay the amount in installment.

The writ petitioners, to show their bonafide, shall pay a sum of ₹ 5 lacs towards the subject loan amount within 20 days from the date of this order. Subject to the above direction, the impugned order passed by the 2nd respondent stands stayed till next date of hearing.

Post the matter on 25.7.2016.'

3. A perusal of the aforesaid order shows that the petitioners, in order to show their bonafides, were required to deposit an amount of ₹ 5 lacs towards the subject loan amount within a period of twenty days from the date of passing of aforesaid order but the said order has not been complied with. This itself dis-entitles the petitioners to avail the benefit of extraordinary writ jurisdiction under Articles 226/227 of the Constitution of India.

4. Dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(RAMENDRA JAIN)
JUDGE

July 25, 2016
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