

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

CWP No. 17518 of 2016 (O&M)

Date of decision: 31.8.2016

Prem Singh and others

...Petitioners.

Versus

District Magistrate, Chandigarh and others

... Respondents.

**CORAM: HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. Akshay Bhan, Senior Advocate
with Mr. Amandeep Singh Talwar, Advocate,
for the petitioners.

Mr. Survir Sehgal, Sr. Standing Counsel, U.T., Chandigarh
with Mr. Dhaman Dhir, Advocate,
for UT Administration – respondent No.1.

Mr. Anupam Gupta, Senior Advocate,
with Mr. R.S. Bhatia, Mr. Ashok Kumar,
and Mr. Abhishek Sharma, Advocates
for respondent No.3 – Punjab National Bank.

Mr. Puneet Bali, Senior Advocate,
With Mr. V.K. Sachdeva and Mr. Rohit Sapra, Advocates
for respondent No.4 – ARCIL.

Mr. Alok Jagga, Advocate,
and Ms. Seerat Sharma, Advocate,
for respondent No. 5.

Mr. Piyush Khanna, Advocate,
Standing Counsel for Central Government,
for respondent No. 6.

Mr. Anand Chibbar, Senior Advocate
with Mr. Nitish Vasudeva, Advocate,
for respondent No.7 – James Hotel Ltd.

S.S. SARON, J.

The present writ petition has been filed by the workmen of respondent No. 7 - James Hotel Ltd. seeking quashing of the order dated 03.08.2016 (Annexure P-6) passed by the District Magistrate, Chandigarh - respondent No. 1 and the impugned notice dated 24.08.2016 (Annexure P-7) regarding taking physical possession of James Hotel - respondent No. 7 on 26.08.2016.

It is further prayed for directing the respondents to take over the business of the borrower and keep the concern running during the proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('Act' - for short).

It is still further prayed that during pendency of the petition, the respondents-Banks may be prevented from sealing or taking such other coercive actions which would be prejudicial to the functioning of the hotel and/or to stay the operation of impugned notices.

The case was taken up on 26.08.2016. It was noticed that the immediate bone of contention was relating to the continuation of smooth running of James Hotel-respondent No. 7.

Mr. Akshay Bhan, learned Senior Advocate appearing for the petitioners had submitted that the hotel was running with guests and it would be iniquitous to close the hotel suddenly without even giving reasonable time to the guests to vacate the hotel rooms; besides, the sudden closure of the hotel would result in grave inconvenience to the hotel guests and other functions that had been booked. Moreover, the petitioners who were working and earning their livelihood had been left in the lurch. It was further submitted that the guests were very much there in the hotel premises and the

workers were serving them. The guests were standing outside the hotel and they had nowhere to go whereas the petitioners, who were the workmen in the said hotel, were ready to serve them.

Mr. Anupam Gupta, learned Senior Advocate appearing for the Punjab National Bank-respondent No. 3 had submitted that physical and actual possession has been taken.

Mr. Puneet Bali, learned Senior Advocate, appearing for the respondent No. 4-Asset Reconstruction Company (India) Ltd. (ARCIL) endorsed the stand of Mr. Anupam Gupta, learned Senior Advocate. According to him, James Hotel-respondent No. 7 has been locked and sealed.

According to Mr. Anand Chibbar, learned Senior Advocate for James Hotel-respondent No. 7, the possession stated to have been taken by the Secured Creditors through the District Magistrate, Chandigarh-respondent No. 1 cannot be termed as taking of valid possession as there have been several irregularities.

Mr. Anupam Gupta and Mr. Puneet Bali, learned Senior Advocates have, however, strongly contradicted the stand of Anand Chibbar, learned Senior Advocate for James Hotel-respondent No. 7 and stated that the possession has been taken validly and legally.

Be that as it may in case there is any violation of the procedure for taking possession as alleged by Mr. Anand Chibbar, learned Senior Advocate for James Hotel-respondent No. 7, it is for the hotel to take up the matter in an appropriate forum which would of course be subject to the rights of the creditors to contest the charge. In the present petition filed by the workmen these aspects are not to be gone into.

The case was adjourned for today so that the hotel guests are not inconvenienced. It was also mentioned that the case before the Debt-Recovery Tribunal-I, Chandigarh that was listed on 29.08.2016 for consideration be taken up. The learned Tribunal has considered the matter and passed a detailed order on 30.08.2016.

In view of the above position, Mr. Akshay Bhan, learned Senior Advocate appearing for the petitioners submits that he may be allowed to withdraw the petition without prejudice to his right to urge the illegalities and irregularities that have been committed by the creditors in taking possession of the hotel in an appropriate manner before an appropriate forum.

Accordingly, the writ petition is dismissed as withdrawn which shall be without prejudice to the rights of any of the parties; besides, nothing stated or observed herein shall be taken as an expression of opinion on the merits of the controversy regarding taking possession by the secured creditors as to whether it was legal or irregular. No costs.

(S.S. SARON)
JUDGE

August 31, 2016

Suresh Kumar

(LISA GILL)
JUDGE

Note:

1.	Whether speaking/reasoned	:	Yes
2.	Whether reportable	:	No