

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

CWP No. 3664 of 2016

DATE OF DECISION : 23.08.2016

Amarjit Singh and others

.... PETITIONERS

Versus

The Authorized Officer, Messer Phoenix ARC Pvt. Ltd. and another

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Shailendra Sharma, Advocate,
for the petitioners.

Mr. D.K. Singal, Advocate,
for respondent No.1.

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RAMENDRA JAIN, J.

1. The petitioners have filed this petition under Articles 226/227 of the Constitution of India seeking a writ in the nature of certiorari for quashing the order dated 11.03.2015 (Annexure P-2) whereby the District Magistrate, Ludhiana (respondent No.2 herein) accorded permission under Section 14 of the Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 (For short 'SRFAESI Act, 2002') to respondent No.1 to take over possession of various properties of the petitioners. Further prayer was sought to direct respondent No.1 not to take any coercive steps against the petitioners.

2. Briefly stated, the petitioners took loan from the Citi Financial Consumer Finance India Ltd., and thereafter vide letter dated 25.07.2012

(Annexure P-1), the said financial Institution had assigned the said debt to

respondent No.1. After the said assignment, respondent No.1 issued notice dated 19.02.2014 (Annexure P-3) to the petitioners for a sum of ₹ 72,27,570/-. When the petitioners defaulted to make payment of the said amount, respondent No.1 bank filed an application for taking possession of secured assets of the petitioners. During the course of hearing before the District Magistrate, the petitioners sought some time to pay the due amount. But since all the formalities had already been completed, including the service of notice under Section 13 (2) of the SRFAESI Act, 2002, application of respondent No.1 was allowed vide order dated 11.03.2015 (Annexure P-2) while rejecting the request of the petitioners for grant of time to make payment. The Commissioner of Police, Ludhiana was requested to provide necessary police help to Tehsildar, Ludhiana (West) to prevent any untoward incident. Thereafter, vide settlement (Annexure P-4), the petitioners and respondent No.1 settled the matter for a sum of ₹ 72,30,000/-. However, since the petitioners failed to honour the above settlement, therefore, vide notice dated 15.09.2015 (Annexure P-5), respondent No.1 terminated it. Consequently, apprehending their dispossession from the mortgaged property at the hands of respondent No.1, the petitioners have filed the instant petition.

3. On February 24, 2016, while issuing notice of motion, this court stayed dispossession of the petitioners from the disputed property, subject to deposit of ₹ 20 lacs by them with the respondent No.1 within a period of one week. In the reply filed by respondent No.1 though it has not been disputed that in terms of the aforesaid order, an amount of ₹ 20 lacs

hearing, i.e. on 04.08.2016, the petitioners were directed to deposit another sum of ₹ 20 lacs before the date fixed, i.e. today itself, to show their bonafides to discharge the entire liability.

4. Today, learned counsel for respondent No.1 has stated that in terms of the aforesaid order dated 04.08.2016, the petitioners have not deposited another sum of ₹ 20 lacs, which fact is not disputed by learned counsel for the petitioners. Earlier also, the petitioners did not honour the settlement (Annexure P-4).

5. In this view of the matter, in our opinion the impugned order dated 11.03.2015 passed by respondent No.2 according permission to respondent No.1 bank to take over possession of the mortgaged properties of the petitioners cannot be interfered with.

6. Petition is, accordingly, dismissed.

(RAMENDRA JAIN)
JUDGE

August 23, 2016
ndj

(AJAY KUMAR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No