

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

**C.O.C.P. No.716 of 2017
Date of Decision: 06.04.2017**

Vipon Tuli

..... Petitioner

Versus

Sh. Rajesh Anand, Regional Manager,
State Bank of India, Shimla (H.P.) and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Arun Jain, Senior Advocate assisted by
Mr. Ashok Jindal, Advocate for the petitioner.

Mr. Rakesh Gupta, Advocate for the respondents.

JASWANT SINGH, J. (Oral)

The petitioner is a tenant in Bay Shop No.49 Sector 15-D, Chandigarh, which stands mortgaged by the original owner/landlord with the State Bank of India (for short 'the Bank'). The Bank has invoked the SARFAESI Act, 2002 for realizing the outstanding loan against the original owner/landlord. The petitioner, being threatened of his lawful possession under the Tenancy Laws, has approached this Court for protecting his possession.

On 22.03.2017, while issuing notice of motion for today, the following order was passed:-

“ Petitioner is a tenant in Bay Shop No.49 Sector 15-D, Chandigarh and the lawful owner subsequently mortgaged the property with the State Bank of India as a collateral security for a loan. The said loan account became a Non Performing Asset and, therefore, proceedings under the SARFAESI Act were initiated. The effort to take physical possession of the demised premises/mortgaged property was being protected under the SARFAESI Act were thwarted due to the protection available under the tenancy law as per the settled law on the subject. In the earlier writ petition bearing CWP No.10314 of 2012 learned Division Bench vide order dated 05.11.2012 had directed secured creditor not to

forcibly dispossess the petitioner.

The grievance now is that inspite of bank/secured creditor having given their undertaking not to dispossess the petitioner under the SARFAESI Act, are proceeding to take possession with the police help as is apparent from the documents Annexures P-3 & P-4.

Notice of motion for 06.04.2017.

Dasti as well.

To be shown in urgent.”

Today, written statement by way of affidavit dated 05.04.2017 of Sh. Arun Sharma, Chief Manager, State Bank of India, SAM Branch, Local Head Office, Sector 17, Chandigarh has been filed, which is taken on record. Copy of the same has been furnished to learned Counsel for the petitioner. Para 5 of the same reads as under:-

“ That the deponent is no longer the authorized officer, but after coming to know of the orders passed in CWP No.10314 of 2012, the bank has already realized their mistake and has taken decision in principle that the petitioner will not be physically dispossessed from shop No.49, Sector 15-D, Chandigarh and in case the property has to be sold, the same shall be sold by way of public auction under the provisions of the SARFAESI Act along with tenancy rights of the petitioner. ”

In view of the above, learned Counsel for the parties are agreed that no further action is warranted in the present contempt petition.

Accordingly, the present contempt petition stands dismissed as infructuous.

The respondents shall be bound by their aforesaid stand.

April 06, 2017

Gagan

**(JASWANT SINGH)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>