IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

Civil Revision No.2033 of 2017
Date of decision: March 21, 2017

Satpal ...Petitioner

Versus

Bank of Baroda & others ...Respondents

CORAM: **HON'BLE MR. JUSTICE RAJAN GUPTA**

Present: Mr. Munish Bhardwaj, Advocate for the petitioner.

Rajan Gupta, J.

Present revision petition has been preferred against the orders dated 9.2.2015 and 29.11.2016, passed by Civil Judge (Jr. Divn.), Jalandhar and Additional District Judge, Jalandhar respectively, whereby application filed by petitioner under Order 39 Rules 1 & 2 read with Section 151 CPC has been dismissed.

Learned counsel for the petitioner has assailed the orders. He submits that impugned orders are unsustainable. According to him, petitioner is tenant over the suit property and respondent No.1 bank in connivance with other respondents wants to dispossess him from the suit property and conduct e-auction of the same.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It appears, petitioner/plaintiff filed a suit for permanent injunction against the respondents for restraining defendant/respondent No.1 bank from dispossessing the petitioner from the suit property forcibly, except in due course of law. Petitioner also filed an application under Order 39 Rules 1 & 2 read with Section 151 CPC. Defendant/ respondents contested the application. After hearing the parties, trial court rejected the prayer made by the petitioner observing that plaintiff/ petitioner had failed to substantiate his possession over the suit property as tenant, as there is no documentary evidence with the plaintiff/ petitioner to show that he is tenant over the suit property. Appeal filed by petitioner against the said order has also been dismissed by Additional District Judge, Jalandhar. Aggrieved, petitioner preferred instant revision petition.

I am of the considered view that the courts below have not committed any error while passing the impugned orders. Application under Order 39 Rules 1 & 2 CPC has been rightly rejected by the courts below. A perusal of impugned order shows respondent No.2 mortgaged the suit property with the bank and the petitioner failed to pay the loan availed by him, therefore, proceedings under SARFAESI Act had already been initiated. The bank has been adopting due course of law under the Act to obtain possession of the suit property. Appeal filed by the petitioner has rightly been dismissed by the first appellate court. The present petition is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

March 21, 2017
'Rajpal'

Whether speaking / reasoned Yes / No

Whether Reportable: Yes / No

Rajpal Singh
2017.03.21 15:24
I attest to the accuracy and integrity of this document