

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

CWP No. 15395 of 2018

Decided on : 18.09.2018

Union Bank of India and another

..... Petitioners

Versus

District Magistrate, Amritsar and others

..... Respondents

**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present : Mr. Iqbal Mohammad, Advocate
for the petitioners.

Ms. Ishneet Kaur, AAG, Punjab.

Mr. Bikramjit Aroura, Advocate
for respondent No.2

Ms. Rakhi Sharma, Advocate
for respondent No.4 and 5.

Respondents No.3 to 5 present in person.

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AVNEESH JHINGAN, J.

Union Bank of India has filed the present writ petition through its Chief Manager Mr. Lalit Mohan Joshi of Amritsar Branch seeking direction to District Magistrate, Amritsar to provide police assistance and other necessary help to take physical possession of hypothecated stocks and machinery/properties mortgaged with petitioner No.1.

2. Union Bank of India is petitioner No.1 and Chief Manager of Union Bank of India, Majith Mandi Branch, District Amritsar is petitioner No.2. District Magistrate, Amritsar and M/s Devgan Rice & General Mills through its partner Naresh Kumar Devgan are respondents No.1 and 2 respectively in the present writ petition. The partner and the legal heirs of the

partner of respondent No.2 have been arrayed as respondents No.3 to 15 respectively in the writ petition.

3. Respondent No.2 availed following financial assistance from petitioner No.1:-

- a. Cash Credit (Hypothecation) Limit of ₹11,50,000,00/-
- b. Packing Credit of ₹1,50,000,00/-.
- c.FDBP/FUDBP (Against L/C) W/W of ₹50,00,000/-
- d. Term Loan of ₹87,49,000/- for working Capital.

4. In order to secure the financial assistance, the following properties apart from others were kept as security with the bank:-

- 1) Factory land and building situated at Killa No.17/23/4(1-12), 29/3 Min (1-18) 130/2(3-0), 17/22/1, (3-13), 22/2, 0-16, 29/1 Min East Khasra. 130/1, Khasra No.130/3, Khasra No.130/3 Sangrana Sahib – Tarn Taran Road-village Chabba, Amritsar admeasuring 16 Kanal 7 Marlas in the name of M/s Devgan Rice & General Mills.
- 2) House built in the aforesaid Devgan Rice & General Mills at Khasra No.134/2 Min 0-18, 334, 5-2 admeasuring 6 kanal in Sangrana Sahib – Tarn Taran Road village Chabba, Amritsar in the name of Shri Harish Chander Devgan, Shri Surinder Mohan, Shri Tilak Raj.
- 3) Land and building of petrol pump situated at Khasra No.338, Min 2-11, 338 Min 1-17, 336 Min 10-0, 336 Min 8-12 Sangrana Sahib-Tarn Taran village Chabba, Amritsar admeasuring 6 Kanal 15 Marlas in the name of Sh. Harish Chander Devgan.
- 4) Residential house situated at plot No.187, Khasra

No.1873/751, Shastri Nagar, Race Course Road, Amritsar
admeasuring 733 Sq Yards in the name of Sh. Harish Chander
Devgan.

5) Plant & Machinery erected at Devgan Rice & General Mills,
Tarn Taran Road, P.O. Gilwali, Sangrana Sahib, Amritsar.

6) Stocks lying at Devgan Rice & General Mills, Tarn Taran
Road, P.O.Gilwali, Sangrana Sahib, Amritsar & Book Debts of
the firm.

5. There was a default in repayment of credit facilities availed. The accounts were classified as Non Performing Assets (NPA) on 30.06.2016. The petitioner-bank issued notice dated 18.07.2016 under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (for brevity, 'the Act'). As per the notice, there was an outstanding due of ₹25,74,80,741/-. Thereafter on 30.09.2016, a notice under Section 13(4) of the Act was issued. The petitioner moved an application under Section 14 of the Act before respondent No.1 to take over the physical possession of the mortgaged properties. The application was allowed vide order dated 27.04.2017. Naib Tehsildar, Amritsar was appointed to take the physical possession of the secured assets with the assistance of the police and forward such assets to the authorised officer of the bank. There was considerable delay in taking over the physical possession of the mortgaged properties, being aggrieved, the present petition has been filed.

6. Heard learned counsel for the parties.

7. Learned counsel for the petitioners contended that the physical possession of properties at serial Nos. 2 and 3 mentioned above have been

taken over by the bank. With regard to property at serial No.4, the possession could not be taken over as there is a tenant in the said property. His grievance is that physical possession of the properties at serial Nos.1, 5 and 6 have not been handed over to the petitioner inspite of the order passed by respondent No.1 on 26.12.2016.

8. Learned counsel appearing for respondents No.2, 4 and 5 (respondents No.3 to 5 were present in person) submitted that they have no objection in handing over the physical possession of the properties mentioned at serial Nos.1, 5 and 6 above. The grievance raised is that the bank should only take physical possession of mortgaged portion of the property mentioned at serial No.1 and not of the entire property.

9. In view of the submissions made, the writ petition is disposed of with the following directions :-

1. As per the statements made by respondents in Court today, they are ready to hand over the possession of the mortgaged properties at serial No.5 and 6. Accordingly, the petitioners and respondents No.2 to 5 would appear before respondent No.1 on 25.10.2018 for handing over the possession of the paid properties.
2. So far as the property mentioned at serial No.1 is concerned, the only issue is that the physical possession of the mortgaged portion of the said property should be taken over. Respondent No.1 would decide the said issue after providing an opportunity of hearing to the petitioners and respondents No.2 to 5. Thereafter accordingly the physical possession of the mortgaged properties would be taken over and handed over to

the petitioners.

3. So far as the property mentioned at serial No.4 is concerned, it is stated that there is a tenant in the said property who would be a necessary party to the litigation. In the present writ petition, the tenant has not been arrayed as respondent. The petitioners would be at liberty to file a fresh writ petition qua the possession of property mentioned at serial No.4 in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

September 18, 2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No