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

CM No.15275 of 2018 in/and
CWP No.20548 of 2018
Date of decision: 11.10.2018

Balwant Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Ish Puneet Singh, Advocate for the applicant-petitioner.

G.S.SANDHAWALIA, J. (Oral)

CM No.15275 of 2018

Prayer made in the present Civil Misc. Application is for placing on record the correct and complete copy of order dated 24.8.2016 passed by the Presiding Officer, Debts Recovery Tribunal-II, Chandigarh as Annexure P/30 is allowed.

Annexure P/30 is taken on record.

Office to detach Annexure P/30 earlier attached with the file and tag Annexure P/30 appended with the application in its place.

The Civil Misc. Application stands disposed of accordingly.

CWP No.20548 of 2018.

A perusal of the paper-book would go on to show that possession of 59 kanals 6 marlas of land has been handed over on 13.6.2018 (Annexure P/17) to the auction purchaser Ashok Gupta and the bank by the revenue authorities in pursuance of recovery certificate for a sum of ₹ 16,31,977.75 (Annexure P/21) on account of decree having been passed on

2.5.2001(Annexure P/6) by the Civil Court, Ludhiana. Counsel does not dispute the fact that the appeal under Section 20 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (Annexure P/31) is pending before the Debt Recovery Appellate Tribunal, New Delhi.

A perusal of the file would further go on to show that there was a recovery certificate issued on 4.10.2004 (Annexure P/21) in pursuance of which the auction of the property had taken place and there was confirmation of the said sale vide order dated 25.8.2016 (Annexure P/25). The petitioner had earlier approached this Court by way of Civil Writ Petition No.5386 of 2007 and he was relegated to his remedy before the Recovery Officer vide order dated 13.8.2013 (Annexure P/9). The objections had been dismissed thereafter on 7.4.2014 (Annexure P/29) and the appeal was dismissed on 24.8.2016 (Annexure P/30). Against the said two orders the matter is pending before the Appellate Tribunal, Delhi. It is to be noticed that a civil suit was filed by the petitioner on 27.10.2006 (Annexure P/8) and the plaint was rejected vide order dated 12.8.2016 (Annexure P/33) which was upheld vide order dated 20.2.2018 (Annexure P/34) by the First Appellate Court. Regular Second Appeal bearing No.3049 of 2018 challenging the said order was also filed which is stated to be pending.

Thus once the matter is already pending before the Appellate Tribunal regarding issue of recovery certificate in pursuance of which the possession had been handed over, this Court is loath to open up a 3rd front of the litigation. It is always open to the petitioner to challenge the handing over of the possession if it was not in accordance with law before the

Appellate Tribunal since the same is in pursuance of the auction proceedings which duly stand confirmed vide order dated 25.8.2006 (Annexure P/25).

Faced with this situation, counsel for the petitioner does not wish to press the present petition and prays that the same be dismissed as not pressed with liberty to avail his remedy as noticed above.

Accordingly, the present writ petition is dismissed as not pressed with the aforesaid liberty.

October 11, 2018
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No