

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

C.W.P. No. 23085 of 2018

Date of Decision: 11.09.2018

Kulbir Kaur

.....Petitioner

**Versus**

District Magistrate, Mini Secretariat, Gurdaspur, Punjab and others

.....Respondent

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

Present: Mr. Prateek Mahajan, Advocate  
for the petitioner.

**AVNEESH JHINGAN, J.**

The present writ petition has been filed seeking direction to District Magistrate, Gurdaspur, Punjab, to pass a specific order on the objections filed by the petitioner in proceedings under Section 14 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the Act').

2. As per the facts pleaded in the petition, father of the petitioner Sh. Piara Singh Padda was the sole proprietor of concern namely M/s Mandeep Padda Rice and General Mills, Village Khatib and M/s Piara Singh Padda and Sons. He was also one of the partner in firm M/s Padda Casting and Machinery Makers. He was sole owner of following properties:

A. Land measuring 8 Kanals 5 Marlas bearing Khasra No.18//12/1, 18//19/2/2, 18//22/2/1 on the name of M/s Mandeep Padda Rice and General Mill (½ share), M/s Piara Singh Padda and sons (½ share), Khatauni No. 15

which is part and parcel of a joint khata of the land measuring 211 kanals 1 marla bearing khasra No. 31//7, 41//8/1, 31//13, 31//27, 31//28, 31//14, 31//15, 31//16, 31//17, 31//18, 31//23, 25//23, 25//24/1, 30//20, 30//11/1, 30//20/2, 31//21/1, 31//3, 31//4/1, 31//4/2/2, 31//5/1, 31//6, 25//24/2, 25//25, 30//1/2, 31//5/2, 31//1, 31//8/2, 31//9/2, 31//10, 31//11, 31//12, 32//5, 32//6, 32//15, 30//8, 30//13, 30//7/1/1, 30//3/2/1/2, 30//3/2/2, 19//6/2, 19//15, 19//16, 18//24/2, 27//4/1, 18//12/1, 18//19/2/2, 18//22/2/1, 18//19/2/1, 18//22/2/2, 18//11/2, 18//20, 18//18/1/1, 18//23/2, 18//18/1/2, 18//23/1 as entered in the jamabandi for the year 2001-2002 as situated at the village Khatib, Tehsil Batala, District Gurdaspur.

**B.** 19/26 share of the land measuring 21 Kanals 18 Marlas bearing Khasra No.8//8/2, 8//9, 8//10, 8//12/1, 8//12/2, 8//13/1, 8//18/1/2 as entered in the Jamabandi for the year 2001-2002 situated at village Sunayia, Tehsil Batala, District Gurdaspur.

**C.** 19/88 share in the land measuring 10 kanals bearing Khasra No.8//8/1, 8//13/2, 8//18/1/1 as entered in the jamabandhi for the year 2001-2002 situated at village Sunayia, Tehsil Batala, District Gurdaspur.

**D.** 13/56 share of the land measuring 9 kanals 18 marlas bearing Khasra No.13//28/1, 284/2, as entered in the jamabandhi for the year 2008-09 situated at village Faizpura, Tehsil Batala, District Gurdaspur.

**E.**  $\frac{1}{4}$  share out of land measuring 2 kanals 14 Marlas i.e. Land measuring 2 kanals bearing khasra No.285 and  $\frac{1}{2}$  share of land measuring 1 kanal 8 marlas of Khasra No. 283 on the name of Padda Casting and Machinery Makers situated at village Faizpura as entered in the jamabandi for the year 2008-09 and the building constructed thereupon.

3. Sh. Piara Singh Padda expired on 09.06.2000. The petitioner is

claiming ownership of the above mentioned properties on the basis of a Will dated 20.04.2000.

4. It would be pertinent to mention here that civil litigation qua the properties, is pending between the petitioner and various respondents. The petitioner gave the above mentioned properties on licence on the basis of an oral agreement to respondents No. 3 and 4, who are her brothers. It is alleged that respondents No. 3 and 4 fraudulently mortgaged the said properties to Bank of India Branch, Milan Palace Building, Opposite Sharda Foundry, Simble G.T.Road, Batala (respondent No.2). There was a default in repayment of credit facility availed. The respondent No.2-bank initiated proceedings under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act'). An application under Section 14 of the Act was moved before District Magistrate, Gurdaspur (respondent No.1). On coming to know about the application, the petitioner filed objections against notice under Section 14 of the Act. The said application is pending till date and is now fixed for 13.09.2018. Meanwhile, during the pendency of the application, respondent No.2-Bank filed CWP No. 15979 of 2018. The writ petition was disposed of vide order dated 05.07.2018 with directions to respondent No.1 to pass a speaking order on the application filed under Section 14 of the Act, within two months from the date of receipt of the certified copy of the order after affording an opportunity of hearing to the petitioner as well as the concerned respondents therein.

5. Learned counsel for the petitioner contended that the petitioner is the owner of the properties mortgaged and hence filed objections before respondent No.1 and a direction be issued to respondent No.1 to pass

specific orders on the objections.

6. The submissions made by the learned counsel for the petitioner cannot be accepted. A civil litigation regarding ownership of the properties in dispute is still pending. It is pertinent to note that the petitioner has not attached any document with the writ petition to even prima-facie establish her ownership of the properties in dispute. The petitioner is claiming ownership on the basis of Will. It has not been pleaded in this writ petition whether the Will is registered or unregistered. No copy of the Will has been attached with the writ petition. Even the copy of the pending civil suit has not been annexed with this writ petition. The objections filed by petitioners are still pending before respondent No.1 and is now fixed for final hearing on 13.09.2018.

7. In view of the facts and circumstances of the case no case is made out for interference in exercise of writ jurisdiction under Article 226 of the Constitution of India.

9. The writ petition is accordingly dismissed. It is, however, clarified that anything stated hereinabove will not be construed as an expression of opinion on the merits of the controversy.

**(AJAY KUMAR MITTAL)**  
**JUDGE**

**(AVNEESH JHINGAN)**  
**JUDGE**

**11.09.2018**  
**reema**

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No