

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 3273 of 2019

Date of Decision: 18.10.2019

MAGMA FINCORP LIMITED

... Petitioner

VS.

ADDITIONAL DISTRICT MAGISTRATE, PATIALA AND OTHERS

...Respondents

CORAM: **HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.**
 HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present: Mr. Sandeep Suri, Advocate,
 for the petitioner.

 Mr. Shreesh Gupta, Senior DAG, Punjab.
 for respondents No. 1 and 2.

 Mr. Jagatvir, Advocate,
 for Mr. Aalok Jagga, Advocate,
 for respondents No. 3 to 5.

 Mr. M.L. Saini, Advocate,
 for respondent No. 6.

RAKESH KUMAR JAIN, J. (Oral)

The petitioner, a financial institution, has prayed for the issuance of a writ in the nature of *mandamus* to direct respondents No. 1 and 2 to implement the order dated 20.04.2018 passed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short “the Act”) in respect of the mortgaged property.

It is submitted that the mortgaged property is a two storey residential house in which respondent No. 6 is in occupation of the ground floor as tenant and respondent No. 5 i.e. the borrower is in occupation of first floor. The order of the District Magistrate dated 20.04.2018 has not been

executed because respondent No. 6 has got injunction against respondent No. 5 in a suit filed for permanent injunction in which the petitioner-financial institution is not a party though an application had already been filed under Order 1 Rule 10 of the CPC by them but still executing authorities of the order dated 20.04.2018 is finding it difficult in taking the possession and handing over the same to the petitioner.

Counsel for the respondent No. 6 has submitted that as per his instructions respondent No. 6 had purchased the residential property but requires atleast three months time to vacate the demised premises. Counsel for the petitioner has not raised any objection in this regard and therefore, the present petition is hereby disposed of with a direction to respondents No. 1 and 2 to take possession of the entire property in dispute on 30.01.2020. Respondent No. 6 shall file an affidavit by way of an undertaking that he will vacate the property in dispute on or before 30.01.2020. In case the undertaking is not filed within a period of 15 days then the arrangement made today will not take place and appropriate proceedings under the Contempt of Courts Act, 1971 shall be issued against respondent No. 6 for his interference in the administration of justice for making the false statement before this Court. It is further directed that respondent No. 5 shall also vacate the demised premises on or before the 30.01.2020.

(RAKESH KUMAR JAIN)
JUDGE

October 18, 2019
Ess Kay

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking / reasoned :	Yes	/	No
Whether Reportable :	Yes	/	No