

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

**CRM-M No.2766 of 2019
Date of Decision.20.01.2020**

Himanshu

...Petitioner

Vs

Raj Kumar and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: None for the petitioner.

Ms. Kritika Anand, Advocate
for respondents No.1 and 2.

Mr. Nitin Grover, Advocate
for respondent No.6.

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JAISHREE THAKUR J. (ORAL)

1. This is a petition that has been filed under Section 482 Cr.P.C. for restraining the respondents from dispossessing the petitioner from the residential house forcibly and illegally till the decision of stay application along with the revision petition No.4 of 2019.

2. No one has put in appearance on behalf of the petitioner, despite having moved an application for preponment of the case for today alleging urgency.

3. Learned counsel appearing on behalf of respondent No.6, Punjab National Bank submits that the instant petition is not sustainable on the ground that the petitioner has not come to this Court with clean hands. It is stated that the petitioner had claimed that she was residing in the said house along with her husband and her brother-in-law Ashok Kumar, who were threatening to dispossess her and based on that statement, this Court had issued notice of motion for 22.02.2019 and in the meantime had stayed

dispossession of the petitioner from the house.

4. Learned counsel appearing on behalf of respondent No.6 states that proceedings had been initiated before the District Magistrate under Section 14 of the SARFAESI Act, on which application the District Magistrate by an order dated 24.05.2018 had directed the Tehsildar, Panipat to take possession of the house in which the petitioner and other family members had been residing. It is argued that possession of the said house was taken to satisfy the loan account No.NHL/KAR/0716/300514 by Punjab National Bank Housing Finance Limited on 15.01.2019 itself, much prior in time to the said order having been passed.

5. He further submits that against the possession having been taken, the parties namely borrowers, respondents No.1 and 2 have already approached the DRT, while further submitting that any remedy available to the petitioner herein would be before the DRT and not in these proceedings.

6. I have heard learned counsel for respondent No.6 and have perused the pleadings with this assistance.

7. The petitioner herein is seeking a stay of dispossession from the house in which she had been residing in proceedings, which had been initiated under the Protection of Women from Domestic Violence Act, 2005. Interim relief of stay of dispossession had been disallowed by the JMJC, Panipat by an order dated 14.12.2018 and at the same time, relief of maintenance of ₹5000/- per month had been allowed. The said order was challenged before the Additional District Judge, Panipat and notice had been issued on the revision petition without granting any interim relief thereon. The complainant immediately approached this Court seeking relief

of stay of dispossession pending the revision petition before the Additional Sessions Judge, Panipat. However, as per the documents available on the record, possession of the said residential accommodation has already been taken by the Punjab National Bank Housing Finance Limited on 15.01.2019 itself after having obtained the necessary orders from the District Magistrate, Panipat in proceedings initiated under Section 14 of the SARFAESI Act.

8. It would be worthwhile to note that the property in question belongs to Ashok Gumber s/o Sh. Kashmir Chand Gumber and Preeti wife of Ashok Gumber, who are none other but brother-in-law of the complainant and his wife. A reading of the possession notice issued by financier would reflect that residential house bearing No.978, Rajiv Colony, Ward No.1, Panipat had been mortgaged by Ashok Gumber and Preet wife of Ashok Gumber in order to secure loan taken in account No. NHL/KAR/0716/300514. The husband of the complainant namely Raj Kumar was not the owner of the house, which is claimed to be a shared residence by the complainant. In any case, once possession has been taken by the financier and admittedly, the petitioner has already approached the DRT for being impleaded as a party, which application already stands dismissed, no orders are called for in the instant petition and the same is dismissed being without any merit.

(JAISHREE THAKUR)
JUDGE

January 20, 2020
Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No