

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

(1)

CWP No. 4159 of 2020

Pankaj Dahiya

.... Petitioner

Versus

District Magistrate, Panchkula and others

..... Respondents

(2)

CWP No. 4164 of 2020

M/s Polo Hotels Ltd.

.... Petitioner

Versus

District Magistrate, Panchkula and others

..... Respondents

**Date of decision : 14.02.2020**

**CORAM :- HON'BLE MR. JUSTICE RAJIV SHARMA**

**HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

**Present:** Mr. Malkiat Singh Jandiala, Advocate,  
for the petitioner in CWP-4159-2020.

Mr. Rajinder Singh and Ms. Ranju Saini, Advocates,  
for the petitioner in CWP-4164-2020.

Mr. Rahul Garg, Advocate, for  
Mr. D.K. Singal, Advocate,  
for the caveator – respondent No.2.

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**RAJIV SHARMA, J.**

Since the common questions of law and facts are involved in

both these petitions, i.e. CWP-4159-2020 and CWP-4164-2020, therefore, the same are being taken up together and disposed of by a common order. The facts are being extracted from CWP-4159-2020.

The petitioner was one of the principal borrowers. The loan was sanctioned on 22.06.2011. The same was classified as “Non Performing Asset (NPA)” on 30.06.2017. The financial institution initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short ‘the SARFAESI Act’). Notice under Section 13 (2) of the SARFAESI Act (Annexure P-10) was issued to the principal borrowers, including the petitioner, on 27.03.2019. The description of the mortgaged property was given therein. Thereafter, notice under Section 13 (4) of the SARFAESI Act (Annexure P-11) was issued on 16.07.2019.

Respondent No.2 had earlier approached this Court by way of CWP No. 910 of 2020 seeking mandamus to the District Magistrate, Panchkula, to decide application preferred by it under Section 14 of the SARFAESI Act for taking physical possession of the secured assets/ mortgaged property. This Court disposed of the writ petition on 15.01.2020 directing the District Magistrate, Panchkula, to decide the application within a period of three weeks from the date of passing of the order and render the necessary assistance to the financial institution – respondent No.2 to enable it to take over the possession. It is in these circumstances, the impugned order dated 10.02.2020 (Annexure P-27) was rendered by the District Magistrate, Panchkula.

Aggrieved by the order dated 10.02.2020 (Annexure P-27),

these writ petitions have been filed.

The principal challenge to the order dated 10.02.2020 (Annexure P-27) is that description of the property given therein is not correct. According to the petitioner, he came to know about details of the property only on 10.02.2020.

We have gone through the aforesaid notices and the impugned order. The details of the assets/property in the notice dated 27.03.2019 issued under Section 13 (2) of the SARFAESI Act as well as the notice 16.07.2019 issued under Section 13 (4) of the SARFAESI Act vis-a-vis the impugned order dated 10.02.2020 (Annexure P-27) are the same.

It has come in the impugned order dated 10.02.2020 that the court of the District Magistrate, Panchkula, had already heard both the parties in detail on 06.02.2020. Respondent No.2 had adopted the procedure as laid down under the SARFAESI Act. The petitioner had also raised objection before the District Magistrate, Panchkula, on 06.02.2020 that the loan was granted to the unit by the Religare Finvest Ltd., whereas respondent No.2 had applied under Section 14 of the SARFAESI Act for taking physical possession. The District Magistrate perused the documents and came to the conclusion that the condition under Section 26-D of the SARFAESI Act was fulfilled. The District Magistrate had also gone through the document/letter dated 18.09.2018. Thus, the order dated 10.02.2020 is a well reasoned order.

The petitioner also submitted that the unit is a running unit. However, the fact of the matter is that the proceedings have been initiated under the SARFAESI Act and culminated into passing of the impugned

order.

Accordingly, there is no merit in these petitions and the same are dismissed.

( **RAJIV SHARMA** )  
**JUDGE**

February 14, 2020  
ndj

( **HARINDER SINGH SIDHU** )  
**JUDGE**

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |