

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

Sr. No.219

**CWP-15244-2020
Date of Decision: 26.11.2020**

PUNJAB NATIONAL BANK

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE S.N. SATYANARAYANA
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr. Arvind Rajotia, Advocate,
for the petitioner.

Mr. Raman Sharma, Addl. AG, Haryana.

S.N. SATYANARAYANA, J.

The matter has been taken up through video conferencing
in the light of COVID-19 pandemic.

This writ petition is filed seeking writ of certiorari to
quash public notice of auction dated 11.09.2020, vide Annexure P-4,
issued by 4th respondent to auction the properties of 5th respondent in
this proceeding.

The aforesaid prayer by the petitioner is on the ground
that the very same property is mortgaged to the petitioner-Bank. It is
further seen that the petitioner-Bank is seeking to recover its dues
under SARFAESI Act. In that behalf, it is stated that an application is
filed before the 2nd respondent-District Magistrate, Ambala, to seek

possession of the property. It is stated that the 2nd respondent-District Magistrate, Ambala, has not passed any orders, therefore, a writ of mandamus is required to be issued to 1st respondent to take action against 2nd respondent.

It is in this background, an order was passed on 23.09.2020 in holding that there shall be no auction of property by 4th respondent, until the application filed by the petitioner before 2nd respondent-District Magistrate, Ambala, is decided. Subsequently, on 03.11.2020, it was brought to the notice of this Court that the 2nd respondent-District Magistrate, Ambala, has fixed hearing of the application filed by the petitioner on 10.11.2020. It is in this background, the matter was ordered to be listed today.

Now this day, learned counsel for the respondent-State would submit that the 2nd respondent-District Magistrate, Ambala, has decided the application filed by the petitioner, which was pending before him, by order dated 10.11.2020. The said submission is placed on record. With this it is clearly seen that one of the prayer of the petitioner in seeking direction to 2nd respondent is fulfilled. So far as other prayer of quashing the auction notice is concerned, by earlier order, the auction which was fixed for the previous date, having been suspended, nothing survives for consideration until a new schedule is fixed for auction of the property. It is in the aforesaid background, it is now open to the Bank either to initiate proceedings to stake its claim, as secured creditors of the said property before the competent authority, and also at the same time to challenge the order of 2nd respondent-District Magistrate, Ambala, if it is not in its favour.

With such observation, the present writ petition is dismissed reserving liberty to the petitioner to take necessary steps to protect its interest in accordance with law, with reference to the property of 5th respondent, which is stated to be mortgaged, in its favour.

(S.N. SATYANARAYANA)
JUDGE

(ARCHANA PURI)
JUDGE

26.11.2020
himanshu

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