

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.17387 of 2020(O&M)

Date of Decision:-16.10.2020

Saurav Gulati & Ors.

.....Petitioners.

Versus

M/s Cholamandalam Investment & Finance Company Ltd., & Ors.

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present:- Ms. Charu Sangwan, Advocate for the Petitioner.

JASWANT SINGH, J.

[The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court]

Petitioners- Principal Borrowers have filed the present writ petition seeking writ in the nature of mandamus for directing respondents-Bank (Cholamandalam Investment and Finance Company Ltd) not to dispossess them from their sole residential house bearing no. J-001 Ambience Lagoon Apartments, Near Ambience Mall, NH-8, Gurugram, Haryana in pursuance to order dated 13.06.2019 (**P-8**) passed by Deputy Commissioner, Gurugram under Section 14 of the Securities and Reconstruct of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFESI Act for short).

Learned Counsel for petitioners has argued that respondent-Bank had arbitrarily re-structured the loan of petitioners which had led to default in payment and passing of the order dated 13.06.2019 (**P-8**) behind the back of petitioners. It is submitted that although an Appeal bearing

No.SA 160 of 2019 was filed however the same was dismissed in default vide order dated 04.12.2019 (**P-11/A**) regarding which they came to know later on. However, during the pendency of the appeal, an amount of Rs.81,17,000/- was also paid. It is pleaded that despite paying such a hefty amount to the best of their capability, respondents issued a sale notice dated 14.09.2019 during the pendency of SA under Rules 8(6) and (7) of Security Interest Rues framed under the SARFESI Act, which has now been again issued vide notice dated 05.10.2020 (**P-13**) by ignoring the position of businessmen in view of COVID-19 situation.

We have heard learned Counsel for the petitioners at length and have perused the paper book. On a pointed query, learned Counsel has not been able to explain the reason for not pursuing the SA No. 160 of 2019 filed by them which was dismissed in default on 04.12.2019. It is admitted by the counsel for petitioners that against the order dated 04.12.2019 (**P-11/A**) no further remedy has been initiated by petitioners. Further, the learned Counsel has not been able to pin point any legal flaw in any of the proceedings initiated by the respondents-Bank or in the order dated 13.06.2019 (**P-8**) passed by respondent no. 3-Deputy Commissioner, Gurugram which would warrant interference from us. We have also expressed our doubts on the bona-fides of the petitioners to pay the loan amount.

Faced with this situation and sensing that this court is not in agreement with her, she prays for withdrawal of the writ petition.

Prayer is allowed and the present writ petition is ordered to be **dismissed as withdrawn.**

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

October 16, 2020
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>