

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP-20816-2020

Date of decision: 14.12.2020

Ganesh Kumar Pathak

..... Petitioner

Versus

The District Magistrate Ludhiana and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE S.N. SATYANARAYANA
HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

PRESENT: Mr. Sahil Khunger, Advocate for the petitioners.

Mr. Navdeep Chhabra, DAG, Punjab.

Mr. Akshay Jain, Advocate for respondents No. 2 and 3.

S.N. SATYANARAYANA, J. (ORAL)

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

Pursuant to order dated 04.12.2020, learned counsel for the respondent-Bank has filed the status report in the form of affidavit of Ms. Anju Nagpal, Chief Manager-cum-Authorized Officer of respondent-Bank, namely; State Bank of India. Along with the report, 7 documents are produced which are at Annexure R-2/1 to Annexure R-2/7. The said documents are also referred to in detail in the affidavit which clearly indicates that notice under Section 13(1) of SARFAESI Act, was issued to the petitioner on 09.10.2018, which is produced by the petitioner himself as Annexure P-1. However the pleading in the petition stops at this. Learned counsel for the petitioner is seeking quashing of that notice indicating that no further proceeding has taken place. Admittedly, this writ petition was filed on 27.11.2020, but the affidavit of Ms. Anju Nagpal, would clearly indicate that much prior to filing of the writ petition, an application under Section 13(4) of SARFAESI Act was filed on 21.01.2019 by

Annexure R-2/1, pursuant to which symbolic possession was taken on 21.01.2019 and the Ist respondent-District Magistrate, Ludhiana has decided the Section 13(4) petition on 22.02.2019 and thereafter, physical possession of the property is taken on 12.12.2019 and the same is also published in the newspaper on 19.12.2019 i.e. 11 months prior to filing of this writ petition. All these developments taken place which is deliberately kept suppressed before this Court while filing this writ petition and certain wrong submissions are being made.

Learned counsel Mr. Sahil Khunger, appearing for the petitioner would submit that he was not aware of these developments, when the writ petition was prepared and filed by him, at the instance of petitioner and it is a revelation for him. However, we are unable to believe the same. In any event, we are not inclined to protract the issue. We feel it appropriate to dismiss this writ petition as it has become infructuous. While doing so, we feel appropriate to impose costs of Rs.10,000/- for suppressing of facts while filing this writ petition. The costs shall be deposited with the High Court Legal Services Committee, within six weeks' from today, failing which the same shall be recovered from the petitioner.

(S.N. SATYANARAYANA)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

December 14, 2020

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Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No