

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

214

CWP No.3915 of 2021
Decided on 08.03.2021

SUDERSHANA PURI AND ANOTHERPetitioners

VERSUS

PUNJAB AND SIND BANK AND ANOTHERRespondents

**CORAM : HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present:- Mr.Vikas Bali, Advocate, for the petitioners.

Mr.Anand Bir Singh Sidhu, Advocate,
for the respondent-Bank.

AJAY TEWARI, J. (ORAL)

By this petition, the petitioners have claimed that despite order dated 19.01.2021 passed by this Court in CWP No.1061 of 2021 (O&M), the title deeds have not been returned.

In an earlier petition i.e. CWP No.1061 of 2021 (O&M) (Annexure P-12), the following order was passed on 19.01.2021:

“1. This petition has been filed with the grievance that the petitioners are ready to pay the entire outstanding amount but the respondent-Bank is illegally refusing to return the title deeds on the pretext that there are other decrees against the owner of the house.

2. The precise grievance of the learned counsel for the petitioners is that this house was never mortgaged against those loans and therefore, the title deeds can not be retained by the respondents-Bank and the respondents-Bank can resort to other remedies to recover their money.

3. Counsel for the respondents-Bank has very fairly stated that he is not in a position to deny that only mortgaged assets can form a part of SARFAESI proceedings and the house in question was not mortgaged in respect of the other loan for which the respondents-Bank has obtained the decree.

4. Counsel for the petitioners states that he will deposit Rs.5.00 lakhs today and the remaining amount will be deposited on or before 18.02.2021. On deposit of amount, the title deed be released to the person authorized by law.

5. Consequently, it is directed that there shall be stay in auction proceedings till 18.02.2021 and in case full amount is not paid by the petitioners to the respondents-Bank, they would be free to proceed further in the matter.

6. Petition stands disposed of with the above terms.

7. Since the main case has been decided, the pending Misc. Application, if any, also stands disposed of.”

The prayer made in the present writ petition is that despite that order, the Bank is not prepared to return the title deeds on the pretext that it has obtained an order of attachment of the same property.

We put it to the learned counsel for the Bank whether under an order of attachment, the title deeds could be retained by the bank, he has accepted that even if the title deeds of any property are not in the bank, an order of attachment would have the same effect.

In the circumstances, it is clarified that respondent No.1-Bank

cannot retain the title deeds on account of the attachment of the property in question in some other case.

In view of the above, the present writ petition is disposed of and if the petitioners want to challenge that attachment, they would have to seek their remedy in accordance with law.

Mr.Sidhu, counsel for the respondent-Bank has accepted this position. In these circumstances, the order 19.01.2021 (Annexure P-12) is reiterated.

(AJAY TEWARI)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

08.03.2021
anil

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