

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

**CWP No. 5933 of 2021
Date of Decision: 26.03.2021**

Malkiat Singh

...Petitioner

Versus

Debts Recovery Tribunal-I, Punjab,
Chandigarh and another

...Respondents

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

Present: Mr. Deepak Arora, Advocate
for the petitioner.

SANT PARKASH, J.

(The aforesaid present is being recorded through video conferencing since the proceedings are being conducted in virtual court)

The instant writ petition has been filed under Article 226/227 of the Constitution of India seeking issuance of a writ in the nature of mandamus directing respondent No. 1-Debts Recovery Tribunal-I, Punjab, Chandigarh to entertain and adjudicate the case dated 02.02.2021 (Annexure P-9) filed by the petitioner and further issuance of a writ in the nature of certiorari for setting aside the impugned notice dated 27.05.2020 (Annexure P-3) issued under Section 13(2) of SARFAESI Act (for short 'the Act'), notice dated 11.11.2020 (Annexure P-4) issued under Section 13(4) of the Act and advertisement/publication dated 01.03.2021 (Annexure P-8) published in The Tribune newspaper. It is further prayed that during the pendency of the instant writ petition, operation of impugned notice dated

27.05.2020, notice dated 11.11.2020 and advertisement/publication dated 01.03.2021 be ordered to be stayed in the interest of equity and justice.

Conceded facts are that the petitioner had availed a loan of Rs. 6 Lakh from respondent No. 2-Punjab National Bank in the year 2003 and a term loan amounting to Rs. 40 Lakh in the year 2015. Against the aforesaid loans, the property of the petitioner situated in the revenue record of Village Chaholi, Hadbast No. 228, Tehsil and District Hoshiarpur was given on mortgage. Initially, the petitioner was adhering to the financial discipline but on account of some misfortune and losses in the business, he was unable to meet his commitments for a certain period. On account of non-payment of dues on the part of the petitioner, the respondent bank issued a notice dated 27.05.2020 under Section 13(2) of the Act, classified his account as Non Performing Asset and subsequently, issued possession notice dated 11.11.2020 under Section 13(4) of the Act. The petitioner moved a representation dated 16.11.2020 (Annexure P-5) to the respondent bank and requested the bank not to initiate any legal action. The respondent bank issued an advertisement/publication dated 01.03.2021 (Annexure P-8) and put the property of the petitioner on sale.

The petitioner had earlier moved a Civil Writ petition before this Court and the same was dismissed as withdrawn with liberty to avail appropriate remedy before the Debts Recovery Tribunal. The petitioner approached DRT by filing S.A. but the same could not be listed as there was no Presiding Officer available in DRT. Learned counsel contended that the petitioner was still ready and willing to settle the account with the bank yet the bank was hell bent upon to sell the property of the petitioner and in order

to materialise its evil design, the bank has published the advertisement/auction notice dated 01.03.2021.

Heard.

Keeping in view the fact that pursuant to the order dated 17.12.2020 passed by this Court in CWP No. 21761 of 2020, the petitioner has already approached the Debts Recovery Tribunal by filing S.A. for the redressal of his grievance as also the settled law with regard to the appropriate forum provided under the SARFAESI Act, this Court stands injuncted from interfering with any matter arising out of the proceedings under the SARFAESI Act. The petitioner can not be allowed to approach this Court time and again by filing the successive writ petition on one ground or the other.

In view of the above, the instant writ petition is dismissed.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

26.03.2021
Maninder

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No