

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

109

CWP-6661-2021

Date of decision: 24.08.2021

Omparkash

.....Petitioner

versus

Sarva Haryana Gramin Bank and others

....Respondents

**CORAM: Hon'ble Mr. Justice Jaswant Singh
Hon'ble Mr. Justice Girish Agnihotri**

Present: Mr. Sushil Kumar Verma, Advocate
for the petitioner.

Mr. Ravinder Jain, Advocate
for the respondents.

*(the aforesaid presence is being recorded through video conferencing since the
proceedings are being conducted in virtual court on account of restrictions due
to COVID 19)*

GIRISH AGNIHOTRI, J.

Petitioner-Omparkash, stated to be aged 47 years, has filed the present petition *inter alia* with a prayer for issuance of a writ in the nature of certiorari for quashing of the Notice dated 23.02.2021 (Annexure P-7), vide which, the respondents have directed the petitioner to deliver possession of the only dwelling house which is alleged to be a secured asset.

On 25.03.2021, Co-ordinate Bench of this Court had directed the Registry to inform the counsel to appear on behalf of Haryana Gramin Bank.

In response thereto, written statement has been filed on behalf of respondents No.1 to 3.

Learned counsel for the petitioner, by making reference to the

pleadings in the petition, submits that the grievance of the petitioner is that during pendency of the proceedings before Debt Recovery Tribunal (DRT), a notice dated 23.02.2021 (Annexure P-7) has been issued.

A perusal of the notice dated 23.02.2021 would show that the respondent-Bank had *inter alia* observed in the notice that on 14.08.2018, 60 days notice was issued under Section 13(2) of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) (hereinafter referred as 'the Act'). Thereafter, vide notice dated 06.11.2018 (Annexure P-3), the petitioner was informed by the respondent-Bank that it has decided to take possession of the secured asset. Still further on 19.01.2019 (Annexure P-4), possession notice under Section 13(4) of the Act, was also issued.

In para 14 of the writ petition, the petitioner has specifically pleaded that the petitioner had challenged the above said notices dated 06.11.2018 (Annexure P-3) and 19.01.2019 (Annexure P-4), by filing a petition bearing SA No.32 of 2019, before DRT-II, Chandigarh.

In the written statement filed on behalf of respondents No.1 to 3, the respondents have *inter alia* taken a stand that if the petitioner has any grievance against the fresh notice dated 23.02.2021 (impugned in the present writ petition), the petitioner can approach the DRT by filing miscellaneous application for any further relief. It is also *inter alia* pleaded that the petitioner was given numerous opportunities to make payment but the petitioner failed to do the same.

This Court finds merit in the plea taken by the respondents. In

view of the peculiar facts noticed above, the present writ petition is devoid of any merit. However without commenting anything on the merits of the case, this Court would relegate the petitioner to avail the remedy already chosen by the petitioner before DRT to challenge the notice (impugned herein) dated 23.02.2021.

Dismissed with the above observations.

(JASWANT SINGH)
JUDGE

(GIRISH AGNIHOTRI)
JUDGE

24.08.2021/anju rani

Whether speaking/ reasoned:
Whether Reportable:

Yes/No
Yes/No