

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(105)

CWP-7654-2021(O&M)
Date of Decision: 02.07.2021

M/s H.M. Enterprises

--Petitioner

Versus

Punjab National Bank

--Respondent

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH.
HON'BLE MR. JUSTICE RAJESH BHARDWAJ.**

Present:- Mr. G.S. Jagpal, Advocate for the petitioner.

Mr. Gaurav Goel, Advocate for the respondent.

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

JASWANT SINGH.J (Oral)

M/s H.M. Enterprises through its sole proprietor Simranjit Singh has filed the present petition seeking a Mandamus to the respondent bank (secured creditor) to release the stocks which have been sealed in the secured asset i.e. property measuring two adjoining plots with total area of 417 sq. yards pursuant to an order passed by the District Magistrate, Ludhiana under Section 14 of the SARFAESI Act. It transpires that M/s H.S. Enterprises, a partnership firm of two brothers namely Gurmeet Singh and Avtar Singh sons of Mohan Singh had availed a loan from Punjab National Bank, Ludhiana Branch for running their business. Two adjoining plots total measuring 417 sq. yards owned by Sajvir Kaur wife of Avtar Singh was offered as collateral property apart from hypothecation of stocks, plant and machinery etc. The account was declared N.P.A and a demand notice dated 1.4.2016 under Section 13(2) of the SARFAESI Act was issued by the bank recalling the outstanding loan amount of Rs.1,04,99,000/-

approximately as on 29.2.2016. The physical possession of the secured asset has been delivered through official assistance on 17.3.2021 after sealing the premises.

Simranjit Singh, proprietor of the petitioner firm concededly is the nephew of Gurmeet Singh and Mohan Singh and claimed to be in possession of a portion of the property pursuant to a rent agreement dated 4.1.2018 (Annexure P-1). It is further conceded that such tenancy was without knowledge or approval of the secured creditor i.e. the bank. By filing the present petition petitioner claims that certain fixtures like iron shed installed by the petitioner-tenant in the property whose possession has been restored back to the bank, be permitted to be removed. However, he has placed no evidence on record of such fixtures. That apart, it would be a matter of evidence with full opportunity to the bank to rebut the same, which exercise cannot be undertaken in the proceedings under Article 226 of the Constitution of India.

In view of the above position, counsel prays for permission to withdraw the present petition with liberty to seek his remedy in accordance with law.

Prayer is allowed.

Present petition is dismissed as withdrawn with the liberty, as prayed for.

(JASWANT SINGH)
JUDGE

02.07.2021
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(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No