

**IN THE HIGH COURT OF PUJAB & HARYANA AT
CHANDIGARH.**

CWP-15930-2019(O&M)

Date of Decision:-15.09.2021

M/s Religare Finvest Ltd.

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondent.

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

Present: Mr. Arvind Thakur, Advocate for Petitioner.

Ms. Sunit Kaur, Assistant Advocate General, Punjab
for respondent Nos.1 to 4.

Mr. Puneet Jindal, Senior Advocate assisted by
Mr. Kunal Mittal, Advocate for respondent Nos.6 &7.

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

JASWANT SINGH, J.(ORAL)

Petitioner-Non Banking Finance Company has filed the aforesaid writ petition seeking a Mandamus directing the District Administration to deliver the actual vacant physical possession of the secured asset i.e. Mortgaged property bearing Plot No.670 measuring 500 square yards situated at village Dhandari Kalan, abadi known as Phase-II, Urban Estate, Tehsil and District Ludhiana, in the light of an order dated 15.6.2017 (P-5) passed by District Magistrate, Ludhiana upon an

application under Section 14 of the SARFAESI Act, 2002 moved by the secured creditor-petitioner.

The facts in brief stated are that M/s Vaishno International Pvt. Ltd.-respondent no.5 along with Mr. Vijay Partap Singh (respondent No.6) and Mrs. Nisha Singh (respondent No.7) wife of Mr. Vijay Pratap Singh, who are directors of respondent No.5 as well, had (all three) availed two loan facilities as Borrowers/Co-Borrowers amounting to the tune of Rs.1,17,00,000/- and Rs.4,50,00,000/- which were sanctioned on 31.01.2015 and 19.01.2015 respectively vide agreement bearing Loan Account Nos. XMORLUD00057766 and XMORLUD00057351.

Due to lack of financial discipline both the aforesaid accounts had been classified as NPA and thereafter a notice dated 19.08.2016 (under Section 13(2) of the SARFAESI Act, 2002) (**P-3**) issued to all the three private respondent nos.5 to 7 seeking to recall of total and balance outstanding amount of Rs.2,05,77,874.60/- (in both accounts) due as on 12.08.2016.

It is apparent from the notice (**P-3**) that the aforesaid property i.e. Plot No.670 measuring 500 square yards situated at village Dhandari Kalan, abadi known as Phase-II, Urban Estate, Tehsil and District Ludhiana was the mortgaged property in the aforesaid two loans qua which SARFAESI proceedings had been initiated leading to the passing of the order dated 15.6.2017 (**P-5**) by the District Magistrate, Ludhiana under Section 14 of the SARFAESI Act, 2002 for delivering physical possession. It cannot be disputed that the petitioner-Religare Finvest Ltd. was competent to invoke the recovery process under the SARFAESI proceedings in the light of the provisions of the Notification dated 5.8.2016

(P-2) issued by the Ministry of Finance, Govt. of India as the principal amounts of loan in both the accounts were above one Crore.

Mr. Puneet Jindal, Senior Advocate assisted by Mr. Kunal Mittal, Advocate appearing for the husband-wife duo i.e. Respondent nos.6 & 7 has submitted that the aforesaid property was never mortgaged in the aforesaid two loans. He asserts that a fraud has been committed by the petitioner-NBFC.

We are afraid that this Court in exercise of writ jurisdiction under Article 226 cannot go into such disputed facts more so the alleged acts of fraud, which requires leading of evidence.

Counsel for the petitioner submits that the possession of the aforesaid mortgaged property has since been handed over on 19.02.2021, hence the present writ petition has become infructuous.

In view of the above, writ petition is **disposed of as infructuous.**

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

September 15, 2021
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>