

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

**CWP No. 15989 of 2021
Date of Decision: 19.08.2021**

Sunita Rani

.... Petitioner

Versus

U.T.Chandigarh Administration and others

... Respondents

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

Present: Mr. Parveen Chauhan, Advocate
for the petitioner.

SANT PARKASH, J.

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

Prayer in the instant writ petition is for issuance of a writ in the nature of mandamus directing the respondents to rectify/modify the order dated 12.06.2017 (Annexure P-3) manipulated by the official of respondent No.3-The Deputy Commissioner-cum-District Magistrate, Chandigarh by including the attachment of property not included in the order dated 18.05.2017 (Annexure P-2) passed by respondent No.3 and further to declare the showroom No.118-A, MDC Road, Manimajra, Chandigarh and stock lying therein free from all type of encumbrances being the order dated 12.06.2017 (Annexure P-3) wrong, invalid and without authority or in the alternative, issuance of directions to respondent No.3 to decide the representation/Legal Notice dated 10.06.2021 (Annexure P-5).

Brief facts of the case are that the deceased husband of the petitioner was engaged in the business of sale and marketing of consumer goods and was also authorized dealer of Nerolac Paints and was having a

showroom bearing No.118-A, Mansa Devi Road, Manimajra, Chandigarh under the name and style of M/s Rattan Trading Company, a proprietorship concern. The husband of the petitioner took a cash credit facility and mortgage loan of Rs.75 Lakh for business purpose from respondent No.4- Punjab and Sindh Bank in the year 2014 by mortgaging the residential property bearing House No.1932, near Manimajra Old Quila, Manimajra, Chandigarh and simultaneously, by hypothecation of stock of tiles, bathroom fittings, hardware, sanitary items and book debts. He also took a loan of Rs.15 Lakh for his house renovation. He paid the installments of the said loan continuously for a period of 2 years, but thereafter, due to effects of demonetization, he could not maintain the financial discipline and as a result thereof, respondent No.4 declared his loan account as NPA and approached respondent No.3-Deputy Commissioner-cum-District Magistrate, Chandigarh under Section 14 of the SARFAESI Act, 2002 for getting physical possession of mortgaged property of petitioner's husband by filing application No.10 of 2017. The said application was disposed of by respondent No.3 vide order dated 18.05.2017 (Annexure P-2) with directions to the revenue officials to assist the bank in taking physical possession over the mortgaged property of petitioner's husband. Taking advantage of the above said order dated 18.05.2017, the Superintendent to the office of respondent No.3 vide order dated 12.06.2017 (Annexure P-3) passed entirely different order and also included the stock lying in the showroom bearing No.118-A, Mansa Devi Road, Manimajra, Chandigarh. Consequent thereupon, the bank took physical possession of the aforesaid

showroom. The said possession constrained the petitioner to serve a legal notice dated 10.06.2021 (Annexure P-5) upon respondents No. 1 to 3.

Heard.

The main plank of arguments of learned counsel for the petitioner is that a forgery was committed and the office of the respondent No.3 vide order dated 12.06.2017 (Annexure P-3) passed an entirely different order and also included the stock lying in the showroom bearing No.118-A, Mansa Devi Road, Manimajra, Chandigarh, whereas in the original order it was not included.

At the very outset, it is well apparent that disputed questions of facts are involved and to substantiate the averments made in the petition, some evidence is required to be led and therefore, the appropriate forum for the petitioner would be to approach the Debts Recovery Tribunal for the redressal of her grievance.

In view of the above, learned counsel for the petitioner prays for permission to withdraw the instant writ petition, with the liberty to approach the appropriate forum.

Accordingly, the present writ petition is dismissed as withdrawn, with the aforesaid liberty.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

19.08.2021
Maninder

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