

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

CWP No.18338 of 2021

Date of Decision: 15.09.2021

M/s Royal Tech Industries and others

.... Petitioners

Versus

Union Bank of India

... Respondent

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

Present: Ms. Shifali Goyal, Advocate for the petitioners.

Mr. Gaurav Goel, Advocate for the respondent.

JASWANT SINGH, J. (ORAL)

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

Petitioner No.1 is the proprietorship concern of Mrs. Kavita Garg (petitioner No.2). Petitioner No.1 is stated to have availed credit facilities from Union Bank of India by way of two loans, which have been declared as NPA on 31.03.2021. The bank has issued a notice dated 07.05.2021 (Annexure P-2) under Section 13(2) of the SARFAESI Act, 2002, to petitioners No.1 and 2/borrowers as also to petitioner No.3-guarantor, seeking the recall of outstanding amount of Rs.44,85,368.40 due in both the accounts as on 31.03.2021. The petitioners filed reply to the aforesaid notice dated 07.05.2021 (Annexure P-2) vide memo dated 25.06.2021 (Annexure P-4) inter alia claiming the entitlement of restructuring of their accounts in terms of the policy dated 17.03.2016 applicable to the MSMEs. Petitioner No.1 is stated to be covered under the definition of MSME.

The instant writ petition as been filed in the light of the notice dated 02.09.2021 (Annexure P-5) issued under Section 13(4) of the

SARFAESI Act, 2002 taking over the symbolic possession of the mortgaged residential building belonging to Mrs. Kavita Garg (petitioner No.2), situated at House No.1675/4276, Block No.03, Ward No.03, Darzia Wala Chowk, Ambala City, Ambala, Haryana, measuring 156 sq. yards. The primary ground of challenge is that the symbolic possession has been taken without first deciding the objections filed by the petitioner to the notice dated 07.05.2021 (Annexure P-2). Support is sought from the judgment passed on 19.03.2018 by Hon'ble Supreme Court of India in ***Civil Appeal Nos.2928-2930 of 2018*** titled ***ITC Limited versus Blue Coast Hotels Ltd. & Ors. and another connected case.***

At the time of hearing, Mr. Gaurav Goel, Advocate appearing for the respondent bank, who is on advance notice, at the outset, submits that the aforesaid notice dated 02.09.2021 (Annexure P-5) taking over symbolic possession, has since been withdrawn, rendering the present writ petition as infructuous. He further states that the reply to the objections shall be duly considered in accordance with law.

In response, learned counsel for the petitioners concedes that nothing more survives for adjudication at this stage.

Accordingly, the present writ petition is disposed of as having been rendered infructuous.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

15.09.2021
Maninder

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