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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-18940-2021
Date of Decision:29.09.2021

Sunil Singhal

...Petitioner

Versus

Sanjay Arora and others

...Respondents

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

Present: Ms. Anisha Jain, Advocate,
for the petitioner.

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

SANT PARKASH, J.

By way of filing the present writ petition under Article 226 of the Constitution of India, petitioner, inter alia, prays for setting aside the order dated 03.08.2021 (P-1) and order dated 09.09.2021 (P-2), vide which the petitioner along with respondents No. 2 and 3 have been directed not to alienate their immovable and moveable assets in any manner till disposal of the SA pending before the Debts Recovery Tribunal, Chandigarh.

Brief facts of the case are that respondent No.4 is a Company engaged in the business of Finishing of Textiles and Sunil Singhal (petitioner) and Ms. Sonia Arora (respondent No.2) are the Directors of the Company. The said Company raised a business loan from respondent No.3-Financial Institution. On the basis of loan recall notice dated 23.10.2020 sent by respondent No.3-financial institution, respondents No.1 and 2 had filed an application bearing SA No.135 of 2021 before the Debts Recovery Tribunal, Chandigarh, wherein, the DRT, Chandigarh, passed the following order on 09.09.2021:-

> *"Ld. Counsel for the SA applicant submitted that, he has received copy of reply filed by the respondent bank and seeks time for filing rejoinder.*
>
> *Ld. Counsel for respondent bank submitted, that they have not issued any notice under Section 13(4) of the Act of 2002 and so the SA is premature and is not maintainable.*
>
> *Ld. Counsel for the applicant argued that on this issue SA can be heard, and he seeks liberty to argue on this issue.*
>
> *Applicant is hereby directed to file rejoinder, on the next date of hearing without seeking the adjournment and to argue. Till all the parties, including respondent Nos. 2 and 3, are hereby directed to not to alienate their immovable and moveable assets in any manner, till disposal of this SA.*
>
> *Put up on 23.09.2021 for filing rejoinder & arguments."*

Hence, the present writ petition.

This Court has heard the learned counsel for the petitioner and perused the case file carefully.

The grievance raised before us is that the learned Debts Recovery Tribunal has exceeded its jurisdiction and passed the impugned order on the basis of conjectures and surmises. Learned counsel for the petitioner, while referring to the impugned order (P-2), would contend that apart from the mortgaged property, the direction has been issued by the learned Debts Recovery Tribunal not to alienate any other movable and immovable assets in any manner.

After having heard, we are of the considered opinion that the petitioner is precluded from taking recourse to filing of the present writ petition under Article 226 of the Constitution of India. Glancing through the impugned order (P-2), it would be revealed that it is nowhere mentioned that apart from the mortgaged property, other movable and immovable property of the petitioner shall not be alienated. If the petitioner is aggrieved by such direction, certainly, a civil misc. application for clarification of the order can be moved before the learned Debts Recovery Tribunal. Apart from that, a specific remedy has been provided under the provisions of the SARFAESI Act seeking redressal of grievance before the learned Debts Recovery Appellate Tribunal.

In view of the above, the present writ petition is dismissed, however, with liberty to the petitioner to avail appropriate remedy, in accordance with law.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

29.09.2021
mks

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO