IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CM Nos. 12838, 12840 & 12841 of 2021 in/and
Civil Writ Petition No. 19227 of 2020 (O&M)
Date of Decision: 09.09.2021

Surinder Gollen and another

.... Petitioners

Versus

Punjab & Sind Bank and others

.... Respondents

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

Present: Mr. Nonish Kumar, Advocate
for the petitioners.

Mr. Anant Bir Singh Sidhu, Advocate
for respondent Nos. 1 & 2 – Punjab & Sind Bank.

Mr. Vivek Saini, Additional Advocate General, Haryana

Mr. Sandeep Singh, Advocate
for the **applicant** – respondent No. 6 (Amarnath Gollen)
(in CM Nos. 12838, 12840 & 12841 of 2021)

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

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JASWANT SINGH, J. (ORAL)

The two petitioners, namely, *Surinder Gollen and Summerjit Singh, sons of Sube Singh*, are the guarantors for a Cash Credit (CC) Limit facility availed by respondent No. 6 (Amarnath Gollen) S/o Sh. Ram Krishan, resident of Kaithali Gate Pundri, Tehsil Pundri, District Kaithal. Due to financial indiscipline, the loan account of respondent No. 6 was declared as Non-Performing Asset (NPA) and the proceedings for recovery of the outstanding loan amount under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short “the Act, 2002”) were initiated.

The guarantors-petitioners, aggrieved by the action of the Bank in choosing the mortgaged properties of the petitioners to auction prior in time, had approached this Court.

This Court, while issuing notice of motion vide order dated 12.11.2020 had passed the following order:-

> *" It is contended that respondent No. 1-bank had enhanced the Cash Credit limit facility to a sum of Rs. 80 Lacs availed by respondent No. 6-Amarnath, who is the uncle of the petitioners. It is vehemently urged that while enhancing the limit from Rs. 50 Lacs to Rs. 80 Lacs, the alleged collateral security in the shape of the residential house of the petitioners i.e. house bearing MCK permanent property ID No. 21C208U339/13 measuring 219 sq. yards, situated at Kaithaly Gate (Pai Gate), Ward No. 13, Pundri, within MC limit of Pundri, was never offered by the petitioners and was in fact, a forged document for which an FIR already stands lodged against Amarnath-respondent No. 6 by the petitioners.*
>
> *The grievance is directed against taking of physical possession of the aforesaid residential house by the bank under the SARFAESI Act, 2002 by ignoring the aforesaid fraud committed upon the petitioners, as also the fact of deposit of a sum of Rs. 50 Lacs by the principal borrower apart from two other collateral securities/properties of the borrowers available qua the outstanding amount of Rs. 30 Lacs.*
>
> *Notice of motion for 07.12.2020.*
>
> *Dasti as well.*
>
> *Till the next date of hearing, status quo as existing today regarding the possession of the aforesaid residential house shall be maintained. "*

The main writ petition now stands adjourned to 14.12.2021.

At this stage, an application bearing ***CM No. 12838 of 2021*** has been moved by the applicant – respondent No. 6 / principal borrower (Amarnath Gollen) seeking **preponement** of the date of hearing of the main case from 14.12.2021.

Another application bearing ***CM No. 12840 of 2021*** has been moved by the applicant-respondent No. 6 for **placing on record** two separate memos dated 21.06.2021 issued by the Punjab & Sind Bank as **Annexures R-6/1 & R-6/2**. A perusal of the same shows that the loan account of the principal borrower has since been settled and closed on 14.06.2021 under an One Time Settlement, thereby rendering the main petition as infructuous.

Notice of both the aforesaid applications to the counsel for non-applicants.

In response, counsel for the petitioners as well as the Bank concede that the present writ petition, in the light of the aforesaid settlement has become infructuous, accordingly, they have no objection for preponement the date of hearing and its disposal.

In view of the above, application bearing ***CM No. 12838 of 2021*** is **allowed**. The date of hearing fixed in the main case is preponed from 14.12.2021 and taken up for hearing today itself with the consent of parties.

Another application bearing ***CM No. 12840 of 2021*** moved by the applicant-respondent No. 6 seeking to place on record two separate memos dated 21.06.2021 issued by the Punjab & Sind Bank as **Annexures R-6/1 & R-6/2** is also allowed. The said memos are taken on record.

For the reasons stated above, the **main case** is **disposed of as infructuous.**

Since the main case stands disposed of as infructuous, no orders are required to be passed in the pending miscellaneous application(s) and the same stand(s) disposed of.

(JASWANT SINGH)
JUDGE

September 09, 2021 **(SANT PARKASH)**
'dk kamra' **JUDGE**

Whether Speaking/reasoned	*Yes/No*
Whether Reportable	*Yes/No*

DINESH KUMAR
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I attest to the accuracy and
integrity of this document