

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

ANURADHA
2021.01.11 11:20
I attest to the accuracy and
integrity of this document

105

**CWP-22729-2020 (O&M)
Date of decision : 06.01.2021**

Surinder Singh and others

..... Petitioners

versus

State of Punjab & others

..... Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present :- Mr. Vishal Aggarwal, Advocate
for the petitioners.

AJAY TEWARI, J. (Oral)

CM-132-CWP-2021

This is an application for amendment of the civil writ petition in view of the changed circumstances having arisen after the filing of the writ petition.

For the reasons recorded in the application, the same is allowed.

Main case

1. This petition has been filed against the order dated 22.12.2020 passed by the Debts Recovery Tribunal-III, Delhi rejecting the objection filed by the petitioners to the auction of the properties which the petitioners had purchased from respondent No.5 and the further action of respondent No.3 in 'hurriedly taken possession of the shops from the petitioners'.

2. The admitted facts are that respondent No.5 was a creditor to respondent No.6-IFCI and in the year 2000 the respondent No.6 had filed the application for recovery of its debts by sale of the property belonging to respondent No.5 (out of which as mentioned above, the petitioners had purchased some portion in the year 2005 to 2007). Independent of that civil suit, the respondent No.5 also came into liquidation and was ordered to be liquidated by this Court and ultimately, it was the liquidator who was seeking the auction of the property. The petitioners had filed objections which, as mentioned above have been rejected. It is not disputed that petitioners have a right of appeal against that order.

3. The second contention of the learned counsel for the petitioners is that even before the statutory limitation of 30 days had expired for passing the order, the respondent No.3 had hurriedly taken action and handed over the possession of the property to the auction purchaser who has demolished the same. He has relied upon Order 21 Rule 26 of CPC in support of the contention the same is reproduced below:-

26: “When Court may stay execution-(1) the Court to which a decree has been sent for execution shall, upon sufficient cause being shown, stay the execution of such decree for a reasonable time, to enable the judgment-debtor to apply to the Court by which the decree was passed, or to any Court having appellate jurisdiction in respect of the decree of the execution thereof, for an order to stay execution or for any other order relating to the decree or execution which might have been made by such court of 1st instance or appellate court if execution has been issued thereby, or if application for execution had been made thereto.

2). *Where the property or person of the judgment debtor has been seized under an evacuation, the court which issued the execution may order the restitution of such property or the discharge of such person pending the result of the application.*

4. In the first place, the petitioners never moved an application before the Debt Recovery officer to stay the effect and consequently even the section gives discretion to the Court to grant the stay or to not grant the stay.

5. In these circumstances, where the petitioners are admittedly the purchasers lis pendens, we decline to interfere.

6. The petition stands dismissed.

7. Since the main case has been dismissed, the pending application if any also stands disposed of.

(AJAY TEWARI)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

06.01.2021
anuradha

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No