

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

CR-1265-2021

Date of Decision: 07.07.2021

PUNJAB STATE GRAIN PROCUREMENT CORPORATION LTD.

..... PETITIONER(s)

Versus

M/S U.V. RICE MILLS AND ANOTHER

..... RESPONDENT(s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Deepali Puri, Advocate
for the petitioner.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to the outbreak of pandemic, COVID-19.

Petitioner – Punjab State Grain Procurement Corporation Ltd. (for short PUNGRAIN) has filed this revision petition challenging order dated 06.08.2019 (Annexure P4), passed by learned Additional District Judge, Hoshiarpur whereby objection petition under Order 21 Rule 58 CPC filed on behalf of respondent no.2 -State Bank of India has been allowed and the property subject to attachment has been ordered to be released.

Brief facts necessary for adjudication of the matter are that respondent no.2 - Bank had filed an objection petition in execution proceedings initiated by present petitioner, claiming that judgment debtor had obtained a sanctioned loan by way of equitable mortgage of property in

question. Objector had also filed a suit for declaration to the effect that it had first charge over the demised property measuring 25 Kanals 15 Marlas. Said suit was decreed and entries in favour of present petitioner and Punjab State Warehousing Corporation were declared to be illegal. Notice under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the SARFAESI Act) was issued. Physical possession of property was also taken. Sale certificate was issued. Auction purchaser approached the Joint Sub Registrar, Mahilpur but an application was moved by present petitioner/decreed holder on 07.05.2019 stating that property stands attached. Resultantly, objection petition was filed by the respondent–Bank.

Learned Additional District Judge, Hoshiarpur while taking note of the entire facts and circumstances, including the fact that decree holder i.e. present petitioner was a party to the civil suit, specifically held that respondent – Bank had prior charge over suit property, which stood sold in an auction after taking possession thereof in accordance with law. Suit property, therefore, could not be attached in the execution proceedings. Property in question was, therefore, ordered to be released from attachment. It is specifically observed that decree holder i.e. present petitioner did not have any charge over suit property when paddy was supplied.

Perusal of impugned order dated 06.08.2019 (Annexure P4) reveals that all the relevant documents pertaining to civil suit for declaration filed by respondent–Bank as well as proceedings to the SARFAESI Act were perused and considered by the learned Additional District Judge, Hoshiarpur. Impugned order has been correctly passed as decree holder was

unable to place on record anything to show that it had a prior charge over suit property. In this view of the matter, it has rightly been held that there was no necessity to frame specific issues while deciding objection petition.

Learned counsel for the petitioner is unable to point out any illegality, infirmity or irregularity in the impugned order dated dated 06.08.2019 (Annexure P4), passed by learned Additional District Judge, Hoshiarpur, which calls for interference by his Court in exercise of revisional jurisdiction.

No other argument has been addressed.

Petition is accordingly dismissed with no order as to cost.

07.07.2021

Sunil

**(LISA GILL)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No