

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

**CWP No. 35529 of 2019 (O&M)
Date of Decision: 25.02.2021**

M/s S.K.Impex and another

....Petitioners

Versus

Punjab and Sind Bank and others

... Respondents

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

Present: Mr. A.S.Samra, Advocate
for the petitioners.

Mr. Ashok Verma, Advocate
for respondent No. 1-Punjab and Sind Bank.

SANT PARKASH, J. (ORAL)

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

The instant writ petition has been filed under Article 226/227 of the Constitution of India seeking issuance of a writ in the nature of certiorari for quashing the impugned notice dated 03.10.2017 (Annexure P-1) and notice dated 06.06.2018 (Annexure P-3) issued under Sections 13(2) and 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002 (for short 'the SARFAESI Act'); issuance of a writ in the nature of mandamus directing respondent No. 1-bank to restore the physical possession of the schedule property to the petitioner No. 1, being the owner and issuance of a writ in the nature of prohibition restraining the respondent No. 1-bank from initiating any action against the property of the petitioners.

Petitioner No. 1 is a proprietorship firm and petitioner No. 2 is the proprietor of the said firm. The petitioner No. 1 availed Cash Credit Limit of Rs. 20 Lakh from respondent No. 1-bank in the year 2016 as the petitioners were into the business of garments/textile. The wife of petitioner No. 2 was the guarantor and the petitioner No. 2 had mortgaged his sole residential house to secure the Cash Credit Limit availed. Proforma respondents No. 2 and 3 were the tenants of petitioner No. 2 since April 2016 and May 2016 and they were inducted as tenants prior to mortgage. The old aged father of the petitioner No. 2 was residing on first floor portion of the mortgaged house and the proforma respondents No. 2 and 3 were residing on ground floor and first floor of the mortgaged house. The petitioner No. 2 continuously paid installments of the loan amount and interest of Cash Credit Limit till 2018. Thereafter, on account of matrimonial discord between the petitioner No. 2 and his wife, both of them got separated. Petitioner No. 2 was forced to leave the house due to various police complaints and other allegations levelled by his wife and therefore, he started living in a rented accommodation at Ludhiana since September 2017. On 03.10.2017, respondent No. 1-bank issued notice under Section 13(2) of the SARFAESI Act claiming outstanding of Rs. 21,02,846.20 against the sanctioned Cash Credit Limit of Rs. 20 Lakh, whereby the account of petitioner No. 2 was declared as Non Performing Asset (NPA) on 30.09.2017. Despite various hardships of matrimonial dispute, the petitioner No. 2 deposited an amount of Rs. 2.70 Lakh from 21.12.2017 to 21.06.2018. Respondent No. 1-bank issued Possession Notice

dated 06.06.2018 under Section 13(4) of the SARFAESI Act. The said demand notice and possession notice were never served upon petitioner No. 2. The respondent No. 1-bank took physical possession of the property and the old aged father of petitioner No. 2 along with proforma respondents No. 2 and 3 were thrown out of the house by the officials of respondent No. 1 with the assistance of the muscle man who claimed themselves to be recovery agents of respondent No. 1-bank. Petitioner No. 2 requested the respondent No. 1-bank to give breathing time of four months to pay the entire dues and overdue amount and to settle the account but respondent No. 1 refused to accept the proposal of the petitioners.

Today, at the very outset, learned counsel for the petitioners submits that the entire dispute has been amicably settled between the petitioners and respondent No. 1-bank and therefore, he seeks permission to withdraw the instant petition.

Accordingly, the present writ petition is dismissed as withdrawn.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

25.02.2021
Maninder

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