

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

**CWP-2660-2022 (O&M)
Date of decision :31.03.2022**

Kotak Mahindra Bank

.. Petitioner

Versus

Pardeep Singh and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Nitin Thatai, Advocate
for the petitioners.

Mr. Harinder Pal Singh, Additional Standing Counsel U.T.,
for respondents No. 3 and 4.

M.S. RAMACHANDRA RAO, J. (ORAL)

In this writ petition, the petitioner-Bank contends that second respondent had passed an order on 20.12.2021 under Section 14 of the SARFAESI Act (Annexure P-5) directing delivery of possession of the secured assets to the petitioner. But he later recalled it on 03.02.2022 vide an Annexure P-9 on the ground that there was a order passed by this Court in CWP-PIL-77-2021 staying auctions/taking up the possession of properties till 28.02.2022 on 20.01.2022.

Learned counsel for the petitioner contends that the said order passed in CWP-PIL-77-2021 has been vacated on 07.03.2022 and is no longer subsisting and, therefore, the impugned order dated

03.02.2022 passed by second respondent recalling the warrant of possession be set aside and direction be given to respondents No. 2 to 4 to immediately deliver the possession of the subject assets to the petitioner-Bank. He also places relies on the order passed by Division Bench of this Court of which one of us is the member in ***CWP-31871-2019*** titled as '***Shriram Housing Finance Limited versus State of Haryana and others***' decided on 11.03.2022, holding that a District Magistrate, after passing an order under Section 14 of SARFAESI Act, has no power to review the said order or to recall the same under any circumstances, since power of review is not conferred under the Statute on the said Officer.

Though notice in this matter has been issued to first respondent/borrower and the said notice has been served upon him on 23.02.2022, no appearance has been put in on behalf of first respondent.

Learned Additional Standing Counsel for U. T. appears on behalf of respondents No. 3 and 4, does not dispute the contentions raised by the petitioner's counsel.

Since the order in CWP-PIL-77-2021 which was subsisting on 03.02.2022 has since been vacated on 07.03.2022, and since second respondent has no power to review or recall its own order passed under Section 14 of SARFAESI Act, as held in ***CWP-31871-2021*** on 11.03.2022, the writ petition is allowed; the order dated 03.02.2022 passed by second respondent is set aside; and respondents No. 2 to 4 are directed to implement the order dated 20.12.2021 passed by second

respondent-Bank within two weeks from the date of receipt of the copy of this order.

Writ petition is disposed of accordingly.

(M.S. RAMACHANDRA RAO)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

31.03.2022
Riya

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