

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

**CR-650-2022 (O&M)
Date of decision : 09.03.2022**

Kotak Mahindra Bank Ltd. and Another	... Petitioner(s)
Versus	
Gaurav Arora and Others	... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Manish Jain, Advocate for the petitioners.

ALKA SARIN, J. (ORAL)

Heard in virtual mode.

Learned counsel for the petitioners, at the outset, limits his prayer in the present case and states that he would be satisfied if a direction is issued to the concerned Court to decide the application under Order 7 Rule 11 of the Code of Civil Procedure, 1908, which is pending for more than a year, in a time bound manner. Learned counsel for the petitioners has contended that respondent No.3 had failed to repay the financial facilities extended to it and the petitioner issued a demand notice dated 23.09.2013 under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short the 'SARFAESI Act') calling upon them to make the payment of a sum of ₹966.47 crores due as on 15.09.2013 along with future interest and other charges thereon. Respondent No.3 was called upon to make the payment within a period of 60 days failing which it was stated that the petitioner

would exercise all its rights under Section 13(4) of SARFAESI Act. In furtherance of the action under the SARFAESI Act, the petitioner filed an application under Section 14 before the District Magistrate, Amritsar seeking assistance in taking over the secured assets belonging to the borrowers. On 13.03.2020 the District Magistrate passed an order directing the Tehsildar, Amritsar for taking over the possession of the secured assets. Thereafter, the petitioners approached the Naib Tehsildar for taking over the possession of one of the secured assets in terms of the order passed by the District Magistrate. The Naib Tehsildar vide his order dated 07.12.2020 directed the Incharge, P.S. Sadar, Amritsar to provide police protection for taking actual physical possession of the said property and fixed the date for 29.12.2020. However, the possession of the said asset was not handed over to the petitioners. On 08.01.2021 the Naib Tehsildar once again directed the Incharge, PS Sadar, Amritsar to provide proper police help on 14.01.2021. On the same day, the District Magistrate passed another order on the application filed by Gaurav Arora-respondent No.1 staying his previous order dated 13.03.2020 and fixed the matter for 19.01.2021.

Respondent No.1 herein filed a civil suit impleading respondent Nos.2 and 3 as well as the petitioners as defendants for a declaration to the effect that plaintiff-respondent No.1 was the owner in possession of the property having an area of 6628 square yards situated at Village Naushehra Nangali, Majitha Road, Tehsil and District Amritsar along with an application under Order 39 Rules 1 & 2 CPC read with Section 151 of CPC. Vide order dated 12.01.2021 status quo was directed to be maintained with regard to the possession of the suit property.

Learned counsel for the petitioners would contend that the said property is a secured asset and was mortgaged with the petitioners and qua which the proceedings under the SARFAESI Act have already been initiated. The petitioner thereafter moved an application under Order 7 Rule 11 CPC read with Sections 32/34/35/17 of the SARFAESI Act for rejection of the plaint. The grouse of the petitioners is that the said application has been pending since 15.02.2021 and the petitioners are not being able to take the possession of the secured asset. The limited prayer made by learned counsel for the petitioners is that the hearing of the said application be expedited.

Heard.

Keeping in view the limited prayer made by learned counsel for the petitioners, without commenting on the merits of the case, the Court concerned is requested to take a decision on the application under Order 7 Rule 11 of CPC, in accordance with law, expeditiously and preferably within a period of two months from the date of passing of this order.

Disposed off.

(ALKA SARIN)
JUDGE

09.03.2022
Yogesh Sharma

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO