

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

COCP-722-2021(O&M)

Date of decision : January 28, 2022

M/s Unisharp Organics Private Limited

... Petitioner

Versus

Aashika Jain and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Aalok Jagga, Advocate
for petitioner.

Ms. Kanica Sachdeva, AAG Punjab.

HARINDER SINGH SIDHU, J

This petition has been filed under Section 12 of the Contempt of Courts Act, 1971 alleging violation of the order dated 6.2.2020 passed in CWP-32162-2019 titled as 'Punjab National Bank Versus State of Punjab and others'.

Petitioner is a company incorporated under the Companies Act, 1956. The petitioner had obtained on lease area measuring 1874 sq. ft. i.e. land and building situated in Khata No.33/70 Khasra No.856 (2-13), 859 (4-0), Kite 2 measuring 6 bighas 13 biswas at village Alamgir, Lalru, Tehsil Dera bassi, District Mohali which is owned by M/s Candor Bio Tech Limited. The lease agreement dated 10.9.2007 was extended from time to time. It is stated that ever since the commencement of tenancy, the petitioner is running the business of manufacturing and trading of Pharmaceutical Formulations in the said premises.

The landlord of the petitioner M/s Candor Bio Tech Limited started interfering in the peaceful possession of part of the property occupied by the petitioner. On 25.4.2017 the petitioner filed Civil Suit No.76-2017 for permanent injunction in the Court of learned Civil Judge (Junior Division), Dera Bassi against his landlord. The suit was decreed vide judgment and order dated 19.5.2018. The defendant-landlord was restrained from interfering in the peaceful possession of petitioner and from dispossessing the petitioner forcibly and illegally except following due course of law.

The landlord of the petitioner had availed certain credit facilities from Punjab National Bank (for short "the bank"). The property in the possession of the petitioner as per lease agreement was also mortgaged by the landlord with the Bank. The loan account of the landlord of the petitioner was classified as NPA. The bank initiated proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short '2002 Act'). The Bank filed an application under Section 14 of 2002 Act before the District Magistrate, SAS Nagar. Taking note of the fact that 1874 sq. ft. of land had been rented out by M/s Candor Bio Tech Limited to the petitioner regarding which a civil suit was pending, in which status quo had been ordered, vide order dated 14.6.2017 the District Magistrate ordered that possession of the remaining property except the land measuring 1874 sq. ft. be handed over to the bank. Despite that order the possession was not handed over to the bank. The bank filed CWP-32162-2019 praying for implementation of the order of the District Magistrate. CWP-32162-2019 came up for hearing on 6.2.2020 when the following order was passed :-

“Reply filed on behalf of respondents No.1 to 3 today in the Court,

is permitted to be taken on record. Ld. Counsel for the State, submits that the possession of the land except 1874 sq. Feet, would be handed over to the petitioner within a period of 3 weeks subject to the petitioner approaching the Revenue Agency. The petitioner is directed to approach the Revenue authorities to do the needful. List on 5.3.2020.”

The submission of learned counsel for the State was recorded that possession of the land except 1874 sq. ft. would be handed over to the bank within 3 weeks of the bank approaching the revenue agency.

Respondent No.1 has passed a fresh order dated 1.12.2020 modifying the earlier order dated 14.6.2017 and directed that the possession of the entire property in the name of M/s Candor Bio Tech Limited including 1874 sq. ft. be handed over to the Punjab National Bank.

Mr. Jagga has contended that the said order directing the handing over of 1874 sq. ft. to the bank constitutes violation of the directions contained in the order dated 6.2.2020 passed in CWP-32162-2019.

It is not possible to accept the contention of Mr. Jagga. The Bank had filed CWP-32162-2019 primarily seeking implementation of order dated 14.6.2017 passed by the District Magistrate, whereby, the possession of land, except 1874 sq. ft. on which the petitioner was a tenant, was directed to be handed over to the bank. When the case came up for hearing on 6.2.2020, the reply was taken on record. The Court then recorded the submissions of the counsel for the State that possession of the land except 1874 sq. ft. would be handed over to the bank within 3 weeks subject to it approaching the revenue agency. The case was then ordered to be adjourned to 5.3.2020. Thereafter, the bank approached the District Magistrate by filing an application under Section

14 of 2002 Act. It submitted before the District Magistrate that as per Section 17 (4) A of 2002 Act, claims regarding tenancy or leasehold rights can be gone into by the Debt Recovery Tribunal and that the jurisdiction of the civil court is barred in such respect. Taking note of the aforesaid, the District Magistrate passed order dated 1.12.2020 directing that the entire property in the name of M/s Candor Bio Tech Limited including 1874 sq. ft. over which the petitioner claims to be a tenant be handed over to the secured creditor i.e. Punjab National Bank.

The said order cannot be said to constitute contempt of the order dated 6.2.2020 passed in CWP-32162-2019 as is sought to be contended. The order dated 6.2.2020 cannot be said to have restrained the District Magistrate from handing over the possession of 1874 sq. ft. over which the petitioner claims to be a tenant to the bank, if it was otherwise permissible.

Mr. Jagga has contended that the District Magistrate could not legally review or modify his earlier order. That is an argument which may be raised in appropriate proceedings but not in the present petition.

Accordingly, there is no merit in this petition and same is dismissed.

Rule stands discharged.

January 28, 2022

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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No