

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

CWP-28202-2019

Date of decision : 22.07.2022

DLF HOME DEVELOPERS LTD

... Petitioner

Versus

ICICI BANK LIMITED AND OTHERS

...Respondents

CWP-28262-2019

Date of decision : 22.07.2022

DLF HOME DEVELOPERS LTD

... Petitioner

Versus

ICICI BANK LIMITED AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO

HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Chetan Mittal, Senior Advocate for
Mr. Kunal Mulwani, Advocate and
Mr. Yuvraj Bhardwaj, Advocate
for the petitioner.
in CWP-28202-2019.

Mr. Rajeev Anand, Advocate
for the petitioner in CWP-28262-2019.

Mr. Sandeep Suri, Advocate
for respondent Nos.1 and 2.

Mr. Vivek Sethi, Advocate
for respondent Nos.3 and 4.
in CWP-28202-2019.

Mr. Ashok Kumar, Advocate for
Munish Kumar Garg, Advocate
for respondent Nos.3 and 4.
in CWP-28262-2019.

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

This order shall disposed of CWP-28262-2019 as common
issues are involved. However, CWP-28202-2019 is being treated as a lead
case.

In this writ petition, the petitioner has sought relief against the respondents in the following manner:-

“Civil Writ petition under Articles 226/227 of the Constitution of India for the issuance of a writ, order or direction, especially in the nature of mandamus directing the respondent/bank to decide the representation dated 04.03.2019 (Annexure P-10), 13.03.2019 (Annexure P-12) and to respond to the legal notice dated 20.06.2019 (Annexure P-15), whereby the issues pertaining to non creation of equitable mortgage in favour of respondent Bank as well as nonpayment of balance sale consideration by the respondent/allottee was raised by the petitioner nor the said property becomes “secured assets” under the provisions of SARFAESI Act and the respondent bank may be directed to decide/reply the same and for restraining the respondent Bank from taking possession of the said property and/or any further action under the SARFAESI Act.

AND/OR

Issue of a writ, order or direction, especially in the nature of certiorari for quashing the impugned notice dated 13.02.2019 (Annexure P-9) and order dated 05.02.2019 (Annexure P-8) passed by the learned District Magistrate, Gurugram (respondent No.5) being totally illegal, void, without jurisdiction as the learned District Magistrate, Gurugram has failed to consider that no equitable mortgage has been created without there being conveyance deed/title deeds in favour of the allottee/respondent No.3 who is yet to pay the balance sale consideration.

AND/OR

Any other appropriate writ, order or direction which this Hon'ble Court deems fit and proper in the facts and circumstances of case.”

As regards prayers A and B these are prayers under the SARFAESI Act, 2002, counsel for respondent Nos.1 and 2 the ICICI Bank, Shri Sandeep Suri, Advocate states that respondent Nos.1 and 2 have stopped SARFAESI proceedings under the Act in respect of the property purchased by respondent Nos.3 and 4 from the petitioner.

In view of the said submission, the present Writ Petition is disposed of as infructuous leaving it open to respondent Nos.3 and 4 and the petitioner to seek adjudication of any *inter se* disputes between them at an appropriate forum.

(M.S. RAMACHANDRA RAO)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

22.07.2022
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No