

CM-6201-CWP-2023 and CM-6204-CWP-2023 IN/AND -1-
CWP-3465-2023 (O&M)

2023:PHHC:051523-DB

116+220 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-6201-CWP-2023 and
CM-6204-CWP-2023 IN/AND
CWP-3465-2023 (O&M)
DATE OF DECISION: 13.04.2023.

SALYWAN

.....PETITIONER

Vs.

DISTRICT MAGISTRATE, PANIPAT AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Naveen Kashyap, Advocate,
for the petitioner.

Mr. Arun Beniwal, D.A.G., Haryana,

Mr. Jatin Bansal, Advocate,
for the applicants-respondents No. 2 and 3.

G.S.SANDHAWALIA, J. (ORAL)

1. The challenge in the present petition is to the securitisation proceedings and the possession notice dated 30.06.2022 (Annexure P-3) which was issued under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short the Act').

2. On 21.02.2023, the following order was passed:-

“Petitioner is stated to be a labourer and had availed a housing loan of Rs. 5.00 lakhs.

Counsel for the petitioner submits that the petitioner is ready and willing to pay the entire overdue amount and would also, henceforth, deposit the installments on the due dates.

**CM-6201-CWP-2023 and CM-6204-CWP-2023 IN/AND -2-
CWP-3465-2023 (O&M)**

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Notice of motion, returnable for 13.04.2023.

An undertaking is furnished that an amount of Rs. 50,000/- would be deposited with the respondent creditor- Supreme Housing Finance Limited on 22.02.2023 and a further sum of Rs. 50,000/- would be paid on or before 10.03.2023.

List on 13.04.2023.

Dispossession of the petitioner from the mortgaged property, which is in the nature of a residential house, shall remain stayed till the next date of hearing.

It is clarified that in case the petitioner defaults in making the necessary deposits, as per undertaking furnished, and within the stipulated time frame, the interim protection shall automatically cease to operate.”

3. Today, applications bearing No. CM-6201-CWP-2023 have been filed by the petitioner for clarification of the order dated 21.02.2023 and CM-6204-CWP-2023 has been filed by the applicant-respondents No. 2 and 3 for dismissal of the writ petition on account of the alternative remedy which is available.

4. Reliance has been placed upon the judgments of the Hon'ble Supreme Court in Authorized Officer, State Bank of Travancore and another vs. Mathew K.C., 2018 SCC OnLine55, Kanaiyalal Lalchand Sachdev and others vs. State of Maharashtra and others (2011) 2 SCC 782, Phoenix ARC Private Limited vs. Vishwa Bharti Vidya Mandir (2022) 5 SCC 345, City and Industrial Development Corpn vs. Dosu Aardeshir Bhiwandiwalla (2009) 1 SCC 168 and United Bank of India vs. Satyawati Tandon and others (2010) 8 SCC 110, by the counsel for the Bank.

5. Counsel for the petitioner has submitted that he could only deposit a sum of ₹50,000/- on 22.02.2023 in compliance of the order dated

21.02.2023.

6. It has also been brought to our notice that the notice under Section 13 (4) of the Act has been issued on 25.05.2022 for recovery of amount of ₹6,72,604/- which was due on 20.03.2022.
7. In such circumstances, we are of the considered opinion that since there is an alternative remedy available under Section 17 of the Act and the fact that the petitioner has failed to comply with the conditional order dated 21.02.2023, the present petition deserves to be dismissed.
8. Consequently, the petition is dismissed but with liberty given to the petitioner to avail of his alternative remedy in accordance with law.
9. Pending miscellaneous application (s), if any, also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

April 13, 2023
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether Reportable	No