

CWP-5022-2019

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Neutral Citation No. 2023:PHHC:162532

(104-6)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-5022-2019

Date of Decision: December 18, 2023

Harnek Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Manjit Singh Sarao, Advocate
for the petitioner.
Ms.Akshita Chauhan, Deputy Advocate General, Punjab.
Mr.Tarun Vir Singh Lehal, Advocate
for respondent No.3.

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RAJESH BHARDWAJ, J.(ORAL)

Petitioner has approached this Court praying for quashing of impugned recovery certificate, Annexure P-2, dated 25.07.2018, resulting in issuance of warrant of arrest of the petitioner with a further direction to the respondents to first proceed against the petitioner in accordance with the law established by the Punjab Legislature in Section 12 and Sections 15/16 of the Punjab Cooperative Agricultural Development Banks Act, 1957, for sale of agricultural produce and sale of land mortgaged with the Bank with further prayer that during pendency of this petition, arrest of the petitioner in pursuance of recovery certificate, Annexure P-2, be stayed.

It has been submitted by learned counsel for respondent No.3 that award against the petitioner was passed under Sections 55 and 56 of the Punjab Cooperative Land Mortgage Act, 1957 (for short, 'the Act'). He submits that as per Section 68(1)(h) of the Act, there is a specific provision for filing an appeal against the same but the petitioner, instead of

challenging the award by way of filing an appeal, has approached this Court by impugning the recovery certificate. He submits that in view of the same, the present petition is not maintainable. He has further submitted that petitioner owes Rs.15.00 lakhs as on 25.07.2018.

In view of the above-mentioned facts, this Court does not find any ground for interference in the impugned order. However, as the case has remained pending adjudication before this Court since the year 2019, keeping in view the facts and circumstances of the case, the present petition is disposed of with a direction that in case the petitioner files any appeal before the competent authority within two weeks from the date of receipt of certified copy of this order, warrant of arrest issued against him would remain in abeyance. Needless to say that if the petitioner does not file any appeal within the stipulated period, this order would have no avail to him. It is further directed that the competent authority would deal with appeal and decide the same by passing a speaking order, in accordance with law.

However, counsel for the petitioner submits that limitation issue would come in his way for availing the alternative remedy.

Keeping in view the above submissions, it is directed that the competent authority would take into consideration the limitation period, in the light of Section 14 of the Limitation Act, and take the decision accordingly, by keeping in view of the fact that the petition remained pending before this Court.

December 18, 2023

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(RAJESH BHARDWAJ)

JUDGE

1. Whether speaking/reasoned ?

Yes/No

2. Whether reportable ?

Yes/No