

CWP-4726-2019

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Neutral Citation No. 2023:PHHC:162571

(104-9)

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

CWP-4726-2019

Date of Decision: December 18, 2023

Gurdev Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.B.S.Jattana, Advocate
for the petitioner.
Ms.Akshita Chauhan, Deputy Advocate General, Punjab.
Mr.Ashwani Prashar, Advocate
for respondent No.4.

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RAJESH BHARDWAJ, J.(ORAL)

Petitioner has approached this Court praying for quashing of impugned notice, dated 29.11.2018, Annexure P-2, sent by respondent No.3 to the petitioner in an illegal manner, which is not sustainable in the eyes of law. It is further prayed to direct respondents No.1 to 3 to recover the arrears of loan amount by way of auction of the land which is already mortgaged against loan taken by the petitioner as per the provisions of Section 15 of the Punjab Cooperative Land Mortgage Banks Act, 1957 and Section 63(b) of the Punjab Cooperative Societies Act, 1961 and not to arrest the petitioner directly since the said land is already mortgaged.

It has been submitted by learned counsel for respondent No.4 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.06,10,828 lakhs as on 29.11.2018.

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