

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(245)

CWP-7379-2021

Decided on : 20.04.2023

Sun Bright Kumar's Exim Pvt. Ltd.

.....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

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

Present: Mr. Akhilesh Vyas, Advocate for the petitioner (s).

Mr. Gurpreet Singh, Addl. AG, Punjab
for respondent Nos.1 & 2.

Ms. Manjari Joshi, Advocate for the respondent No.3.

G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition filed under Articles 226/227 of the Constitution of India is to the possession notice dated 01.06.2019 (Annexure P-4) where in there was a demand of ₹47,21,268/- as per Section 13 (2) notice dated 26.09.2018.

2. A perusal of the paper-book would go on to show that SA No.111 of 2019 was filed by the present petitioner wherein the Debts Recovery Tribunal vide order dated 03.03.2021 (Annexure P-12) noticed that the amount of ₹80 lakhs is due and only assurances were being given to deposit the entire amount. In the said application challenge has also been made to the orders passed by the District Magistrate.

3. On 01.04.2021, the following contentions were noticed:-

“Learned counsel for the petitioner refers to notice dated 27.09.2018 (Annexure P-1) whereby notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Act, 2002 issued to the petitioner with respect to loan account as per the details given in this notice. The petitioner, thereafter, gave application on 04.03.2021 (Annexure P-10) stating therein that there was adjustment of ₹10 lacs towards loan of ₹43 lacs and the loan account was settled

under OTS scheme in the presence of Tehsildar Office Duty Magistrate and Balram Sharma, Branch Manager.

The grievance of the petitioner is that pursuant to notice for physical possession issued on 02.02.2021 by Duty Magistrate, Amritsar (Annexure P-9), respondents are in the process of taking physical possession of the property of the petitioner, the details of which have been given in notice dated 27.09.2018 (Annexure P-1).

4. The matter was thereafter pending and had been adjourned to 14.07.2021 and then to 14.12.2022 and had not been taken up. As per office report, *dasti* notices which had been issued for service of the Bank could not be issued for want of process fee. Apparently, the petitioner has enjoyed the stay order for a period of over 2 years and delayed the recovery of the public money which is outstanding against him and without making any further payment.
5. It is the case of the counsel for the petitioner during the intervening period some amounts have been deposited, but no such proof has been shown to us. Even counsel for the respondent-Bank disputes the same.
6. Keeping in view the above since the matter is already pending for 25.04.2023 before the Tribunal, which fact has now been informed by counsel for the Bank, we relegate the petitioner to press for interim protection before the Tribunal, where also he can deposit some amount to get extended the stay, if he so wishes. In case some amounts have been deposited with the respondent-Bank as contended by the counsel for the petitioner, the same will be taken into consideration by the Tribunal while granting the interim relief to the petitioner, if made out.
7. Resultantly, the present writ petition is disposed of with the aforesaid liberty.

(G.S. SANDHAWALIA)
JUDGE

20.04.2023
Naveen

(HARPREET KAUR JEEWAN)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No