

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

(150)

CWP-5619-2023

Decided on: 20.03.2023

Rahul Anil Ahuja

....Petitioner(s)

Versus

The District Magistrate, Gurugram and others

.... Respondent(s)

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

Present: Mr. Vijay Rana, Advocate for the petitioner(s).

G.S. Sandhawal, J.(Oral)

The present writ petition has been filed under Articles 226/227 of the Constitution of India challenging the order dated 16.01.2023 (Annexure P-5) passed by respondent No.1-District Magistrate, Gurugram, wherein on account of the outstanding of ₹1,92,09,554.51 as on 01.04.2021 the possession of the mortgaged property had been taken. The District Magistrate has appointed the Naib Tehsildar-cum-Executive Magistrate, Gurugram as Duty Magistrate, who was further directed to ensure that while executing the order, there is no stay from any competent Court/DRT in respect of the aforesaid secured assets.

Counsel has vehemently submitted that there is already a charge on the property bearing House No.1512, Sector-21 Urban Estate, Gurugram with the Income Tax Department while referring to the order of attachment of immovable property dated 29.03.2019 (Annexure P-1).

We are of the considered opinion that the said argument is without any basis. It is for the said department to ensure that its attachment order is enforced in accordance with law.

A perusal of the order of the District Magistrate would also go on to show wherein it has been mentioned that if there is any person who claims any tenancy or leasehold rights or any other objections upon the secured assets, the remedy is available for him under Section 17 of the Securitization and Re-construction of Financial Assets and Enforcement of Security Interest Act, 2002 before the Debts Recovery Tribunal.

In such circumstances, we are of the considered opinion that the petitioner has no locus-standi as such to challenge the order on the said basis. Resultantly, keeping in view the large outstanding amounts and the fact that the bank has only secured physical possession of the property in question, so that the recovery can be effected from the petitioner, we do not find any ground to exercise the extra-ordinary writ jurisdiction. The writ petition is accordingly dismissed.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

20.03.2023
Naveen

Whether speaking/reasoned :	✓Yes	No
Whether Reportable :	Yes	✓No