

122 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2779-2023

Date of Decision :04.05.2023

State Bank of India ...Petitioner

versus

Krishna Singhal and othersRespondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present: Mr. Anand Chhibbar, Sr. Advocate with
Mr. Chandeeep Singh, Advocate for the petitioner.

B.S. Walia, J. (Oral)

1. Prayer in the petition under Article 227 of the Constitution of India read with Section 115 of the Code of Civil Procedure is for the issuance of an appropriate order/direction to the learned trial Court to consider and decide application dated 19.11.2020, filed by the petitioner under Order 7 Rule 11 of CPC, in a time bound manner.

2. Learned Sr. Advocate assisted by Mr. Chandeeep Singh, Advocate, contends that proceedings had been taken out by the petitioner against M/s Abhishek Concrete Pvt. Ltd. under the provisions of the SAFEASI Act, 2002, in the year 2014 and qua the same property equitable mortgage had been created by respondent Nos.3, 6, 8 and 11. Thereafter, respondent Nos.1 and 2 filed civil suit No.257-2019 on 31.05.2019 against respondent Nos.3 to 11 as well as the petitioner in which interim injunction was granted restraining the defendants (respondent Nos.3 to 11 and petitioner herein) from alienating the suit property, whereafter, the petitioner filed an application under Order 7 Rule 11 CPC, in the aforesaid civil suit on 19.11.2020 but the same was not decided and in the meantime, the

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aforementioned civil suit was dismissed in default vide order dated 20.05.2022. Learned counsel contends that thereafter the petitioner issued publication on 10.03.2023 for auction of the secured assets which was the subject matter of the civil suit which was dismissed in default on 20.05.2022 and that although the property in question was auctioned for Rs.3,51,00,000/-,the sale certificate has yet to be issued. Learned counsel contends that as per order Annexure P/32-A dated 23.03.2023, the learned trial Court has recorded that the suit dismissed in default on 20.05.2022, had been restored vide order dated 31.01.2023, but as per inspection of the Court file of the learned trial Court, there is only order of 30.01.2023, adjourning the matter to 14.03.2023 and there is no order of 31.01.2023 restoring the suit dismissed in default on 20.05.2022. Learned counsel contends that in view of the petitioner having auctioned the suit property, respondent Nos.1 and 2 have initiated proceedings against the petitioner under Order 39 Rule 2-A CPC, in which, notice was issued for 02.05.2023 and pursuant to filing of reply by the petitioner, the same now stands adjourned to 14.07.2023. Learned counsel contends that be as it may, there is no order of the trial Court dated 31.01.2023, restoring the civil suit dismissed in default nor is there any other order available on the e-portal of the official website of the High Court nor was any notice for restoration of the suit received by the petitioner. Learned counsel contends that the petitioner had filed an application under Order 7 Rule 11 of CPC on 19.11.2020 in the aforesaid civil suit and no reply has been filed to the same nor has the said application been decided till date. Learned counsel contends that in the circumstances, the prayer of the petitioner is limited to the extent that a direction be issued

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to the learned Civil Judge (Junior Division), Narwana, to consider and decide the application under Order 7 Rule 11 CPC, in accordance with law, in the light of Section 34 SARFAESI Act, 2002.

3. I have considered the submissions of learned counsel and in view of the limited nature of the prayer, the instant petition is disposed of by requesting the learned trial Court to consider and decide the application filed by the petitioner under Order 7 Rule 11 CPC, on 19.11.2020, in accordance with law, as expeditiously as possible, preferably within six weeks from today.

(B.S. Walia)
Judge

04.05.2023
rajesh

Whether speaking/ reasoned	:	Yes/No
Whether reportable	:	Yes/No