

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

104

CM-21721-CWP-2023 in/and
CWP-14621-2022

Date of Decision: 22.12.2023

DAYA NAND

... Petitioner

VERSUS

STATE BANK OF INDIA AND OTHERS

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE

Present: Ms. Gagan Deep Grewal, Advocate
for the applicant-petitioner.

Mr. Rakesh Gupta, Advocate
for the respondent-Bank.

LISA GILL, J.(Oral)
CM-21721-CWP-2023

Prayer in this application is for staying auction of the property slated for 29.12.2023 pursuant to sale notice dated 11.12.2023 (Annexure P-9).

It is submitted that petitioner had approached learned Debt Recovery Tribunal-II (DRT-II) Chandigarh by way of SA-341-2023 to challenge said sale notice. However, his SA has been dismissed by learned Tribunal on 19.12.2023 on the ground of pendency of present writ petition wherein petitioner has challenged taking over of possession of mortgaged property. Petitioner is stated to be a guarantor of the loan in question.

Learned counsel for the parties are *ad idem* that hearing of writ petition be pre-poned from 08.01.2024 and same be taken up for hearing today itself.

Accordingly, at request and with consent of learned counsel for the parties, hearing of CWP-14621-2022 is pre-poned from 08.01.2024 to today itself.

CWP-14621-2022

1. Prayer in this writ petition is for restraining respondents from taking possession of mortgaged property of the petitioner who is the guarantor of loan in question during pendency of OA-669-2022 filed by respondent-Bank. Admittedly, possession of the property was taken by the respondent-Bank on 30.10.2023. Subsequent thereto sale notice dated 11.12.2023 (Annexure P-9) has been issued.
2. Learned counsel for the petitioner at this stage submits that petitioner be permitted to withdraw this writ petition with liberty to take up all these pleas before learned DRT and liberty should also be granted to the petitioner to file appropriate application for revival of SA-341-2023.
3. Learned counsel for respondent-Bank has not raised any objection thereto.
4. Keeping in view the above, this writ petition is dismissed as withdrawn with liberty as aforementioned. In case appropriate application seeking revival of SA-341-2023 is filed by the petitioner within next one week, the same be considered sympathetically by learned DRT-II Chandigarh.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

22.12.2023
Rimpal

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