2023:PHHC:093290-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
136

CWP-15660-2023

Date of decision: July 24, 2023

PUNJAB NATIONAL BANK

.....PETITIONER

Versus

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

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

Present: Mr. Ankit Kaushal, Advocate,
for the petitioner.

Mr. Sandeep Jain, Addl. A.G. Punjab.

LISA GILL, J. (ORAL)

1. Grievance raised in this writ petition is that application dated 20.06.2022 (Annexure P-3) filed by the petitioner-Punjab National Bank under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act') is not being decided by respondent No. 3 in an unjustified manner.

2. Notice of motion to respondents No. 1 to 5 only at this stage.

3. Mr. Sandeep Jain, Addl. A.G. Punjab, accepts notice.

4. Perusal of the file reveals that application under Section 14 of the SARFAESI Act filed on 20.06.2022 is still pending before the learned District Magistrate, Shaheed Bhagat Singh Nagar-respondent No. 3. As per the mandate of Section 14 of the SARFAESI Act, said application has to be

decided in a time bound manner. Section 14(1) of the SARFAESI Act and provisos thereto read as under:-

> **"Section 14. Chief Metropolitan Magistrate or District Magistrate to assist secured creditor in taking possession of secured asset.**
>
> (1) Where the possession of any secured assets is required to be taken by the secured creditor or if any of the secured assets is required to be sold or transferred by the secured creditor under the provisions of this Act, the secured creditor may, for the purpose of taking possession or control of any such secured assets, request, in writing, the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any such secured asset or other documents relating thereto may be situated or found, to take possession thereof, and the Chief Metropolitan Magistrate or as the case may be, the District Magistrate shall, on such request being made to him--
>
> (a) take possession of such asset and documents relating thereto; and
>
> (b) forward such asset and documents to the secured creditor:
>
> Provided that any application by the secured creditor shall be accompanied by an affidavit duly affirmed by the authorised officer of the secured creditor, declaring that—
>
> (*i*) the aggregate amount of financial assistance granted and the total claim of the Bank as on the date of filing the application;
>
> (*ii*) the borrower has created security interest over various properties and that the Bank or Financial Institution is holding a valid and subsisting security interest over such properties and the claim of the Bank or Financial Institution is within the limitation period;
>
> (*iii*) the borrower has created security interest over

various properties giving the details of properties referred to in sub-clause (*ii*)above;

(*iv*) the borrower has committed default in repayment of the financial assistance granted aggregating the specified amount;

(*v*) consequent upon such default in repayment of the financial assistance the account of the borrower has been classified as a non-performing asset;

(*vi*) affirming that the period of sixty days notice as required by the provisions of sub-section (*2*) of Section 13, demanding payment of the defaulted financial assistance has been served on the borrower;

(*vii*) the objection or representation in reply to the notice received from the borrower has been considered by the secured creditor and reasons for non-acceptance of such objection or representation had been communicated to the borrower;

(*viii*) the borrower has not made any repayment of the financial assistance in spite of the above notice and the Authorised Officer is, therefore, entitled to take possession of the secured assets under the provisions of sub-section (4) of Section 13 read with section 14 of the principal Act;

(*ix*) that the provisions of this Act and the rules made thereunder had been complied with:

Provided further that on receipt of the affidavit from the Authorised Officer, the District Magistrate or the Chief Metropolitan Magistrate, as the case may be, shall after satisfying the contents of the affidavit pass suitable orders for the purpose of taking possession of the secured assets within a period of thirty days from the date of application:

Provided also that if no order is passed by the Chief Metropolitan Magistrate or District Magistrate within the said period of thirty days for reasons beyond his control, he may, after recording reasons in writing for the same, pass the order within such further period but not exceeding in aggregate sixty days.

Provided also that the requirement of filing affidavit stated in the first proviso shall not apply to proceeding pending before any District Magistrate or the Chief Metropolitan Magistrate, as the case may be, on the date of commencement of this Act.

1(1A) The District Magistrate or the Chief Metropolitan Magistrate may authorise any officer subordinate to him,—

(*i*) to take possession of such assets and documents relating thereto; and

(*ii*) to forward such assets and documents to the secured creditor."

5. Keeping in view the facts and circumstances as above but without expressing any opinion on the merits of the matter, this writ petition is disposed of with a direction to respondent No. 3 to dispose of the application under Section 14 of the SARFAESI Act filed by the petitioner expeditiously, and definitely within one month of the date fixed before it, in accordance with law.

(LISA GILL)
JUDGE

July 24, 2023
pj

(RITU TAGORE)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No