

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

CWP-19444-2022

Date of Decision: 13.07.2023

M/S CRS HOSPITALITY PVT LTD AND ANOTHER

... Petitioners

VERSUS

DISTRICT MAGISTRATE AND OTHERS

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr. H. S. Jagdev, Advocate for
Mr. Aalok Jagga, Advocate
for the petitioners.

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

Mr. APS Madaan, Advocate
for respondent No.3.

LISA GILL, J.(Oral)

1. Prayer in this writ petition is for quashing notice dated 10.08.2022 (Annexure P-12) under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act), 2002 Act, notice dated 16.02.2016 (Annexure P-7), notices dated 03.05.2016, 21.11.2016 and 14.12.2016 (Annexure P-8 to P-10 and possession notice dated 08.09.2017 (Annexure P-11) issued under Section 13 of the SARFAESI Act, 2002 on the ground that security interest created in favour of predecessor of the third respondent and the third respondent are not registered with the Central Registry. Thus there can be no enforcement of the security in view of Section 26 (D) of the SARFAESI Act.

2. Notice of motion was issued on this plea itself.

3. Reply has been filed on behalf of respondent No.3. It is categorically stated that security interest i.e. lender's interest with respect to the mortgaged property was duly registered. Learned counsel refers to Annexures R-1 and R-2 to which learned counsel for the petitioners retorts that there are certain defects in the registration.
4. Apart from the fact that this Court in exercise of jurisdiction under Article 226 of Constitution of India would desist to delve in the controversy sought to be raked except in exceptional circumstances, it has also been brought to our notice that a petition under Section 95 IBC has been filed by respondent No.3 before National Company Law Tribunal Chandigarh Bench.
5. In this view of the matter, learned counsel for the petitioner seeks to withdraw this writ petition with liberty to the petitioners if so advised to avail his remedy/remedies in accordance with law.
6. Writ petition is accordingly dismissed as withdrawn with the aforesaid liberty.
7. There is no expression of opinion on the merits of the controversy.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

13.07.2023
Rimpal

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