

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-474-2015

Date of decision : 29.03.2023

Mandir Shri Hanuman Ji Maharaja, Jagadhri

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHLPresent: Mr.Amandeep Singh Rai, Advocate
for the petitioner.Mr.Amit Aggarwal, DAG, Punjab
for respondents no.1 to 3.Mr.Robin Dutt, Advocate
for respondents no.4 to 8.**VIKAS BAHL, J.(ORAL)**

This is a civil writ petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the order dated 10.07.2012 passed by the SDO (Civil)-cum-Collector, Jagadhri whereby the application under Section 4 of the Redemption of Mortgages (Punjab) Act, 1913 (in short “the Act”) filed by respondents no.4 to 10 for redemption has been allowed.

Learned counsel for respondents no.4 to 8 has submitted that the present petition is not maintainable in view of the provision of Section 13 of the Act and has referred the said provision, which is reproduced hereinbelow:-

“13. Saving of suits to establish rights.- Any party aggrieved by an order made under section 6,7, 8, 9, 10 or 11 of this Act may institute a suit to establish his rights in respect of the mortgage,

but subject to the result of such suit, if any, the order shall be conclusive.

Notwithstanding anything in this section a mortgagee against whom an ex-parte order under Section 7 has been made or a petition, whose petition has been dismissed in default under Section 6 may apply to the Collector to have such order or dismissal set aside, such order or dismissal on such terms as to costs or otherwise as he may deem fit; provided that the order or dismissal shall not be set aside unless notice of the application has been served on the opposite party.

It is submitted that even in case the petitioner and his predecessor-in-interest have been proceeded against ex-parte, then also the present petition is not maintainable.

Learned counsel for the petitioner, in view of the objection taken by the respondents, has prayed that he be permitted to withdraw the present petition with liberty to seek alternate remedy in accordance with Section 13 of the Act.

In view of the statement made by learned counsel for the petitioner, the present petition is dismissed as withdrawn with the aforesaid liberty.

(VIKAS BAHL)
JUDGE

March 29, 2023
Davinder Kumar

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