

Neutral Citation No. 2023:PHHC:63663-DB
**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(260)

CWP-22523-2021

Decided on :03.05.2023

Yuvraj S Singh and another

.....Petitioner(s)

Versus

M/s Orix Leasing & Financial Service India Limited and another

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present: None for the petitioner (s).

G.S. Sandhawalia, J. (Oral)

In the present writ petition filed under Articles 226/227 of the Constitution of India challenge has been made to the securitization proceedings and to the notice dated 17.07.2021 (Annexure P-1) issued under Section 13 (4) of the Securitization and Re-construction of Financial Assets and Enforcement of Security Interest Act, 2002, wherein a sum of ₹1,24,52,785.91 were sought to be recovered.

2. On 08.11.2021 the following order was passed:-

“Notice of motion for 18.01.2022.

It is the contention of counsel for the petitioner that the petitioner has been declared as an NPA on 05.02.2021 contrary to the orders passed by the Supreme Court on 04.09.2021 in WP(C) 476/2020 which barred the banking sector from declaring any account NPA between 04.09.2020 to 23.03.2021. It is also the contention that there were only two consecutive defaults and not 3 consecutive defaults as mandated by the RBI; and in view thereof, the petitioner could not have been declared NPA. The petitioner also contends that against the possession notice issued, the petitioner has filed SA under Section 17 before the DRT and though notice in the said application has been served on the respondents, the respondents chose not to appear and are bent upon dispossessing the petitioner by approaching the District Magistrate under Section 14 of the SARFAESI Act, 2002. He also offers to deposit Rs.2 lakhs with the respondent within 03 days.

We find considerable force in the submission made by counsel for the petitioner.

Subject to petitioner’s depositing a sum of Rs.2 lakhs within 03 days from today, the respondents are directed not take any coercive action including dispossessing the petitioner from the subject property.”

3. On 22.09.2022, it was noticed that the process fee has not been deposited and liberty was given to file the process fee within two weeks. Needful still has not been done. Apparently, the petitioner has enjoyed the benefit of the said order for the last 1½ years, even without making an effort to serve the respondent. The said order would also go on to show that the Securitization Application is already pending before the Debts Recovery Tribunal.

4. Resultantly, we dismiss the present writ petition for want of prosecution and vacate the interim order dated 08.11.2021 with liberty to pursue his remedy pending before Debts Recovery Tribunal.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

03.05.2023
Naveen

Whether speaking/reasoned :	Yes	
Whether Reportable :		No