

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(252)

CWP-22051-2021
Decided on : 04.05.2023

Saravdeep Singh and others

.....Petitioner(s)

Versus

Housing Development Finance Corporation Ltd. and others

.....Respondent(s)

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

Present: None for the petitioner (s).

Ms. Maninee, Advocate for
Mr. Shekhar Verma, Advocate for the respondents.

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 initiated specially order under Section 14 of the Securitization and Re-construction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short '2002 Act') passed by the District Magistrate, Gurdaspur dated 27.09.2021 (Annexure P-4).

2. A perusal of the written statement filed on behalf of the respondent-financial institution would go on to show that as per the application filed under Section 14 of the 2002 Act on 31.07.2021, possession notice was issued on 25.01.2020. Postal receipt dated 28.01.2020 has also been attached with the written statement. On the application filed under Section 14, an order was passed and there was a demand of `15,45,605/- as due on 31.08.2019, as per notice issued under Section 13 (2) of the 2002

Act, which was published in the newspaper on 12.10.2019. Accordingly, the said notice was pasted on the secured asset and necessary report has also been appended as annexure in the said petition. In the written statement filed, it has further been mentioned that a civil suit was also filed by the petitioners in collusion with their brother Sandeep Singh and the same was not maintainable.

3. While issuing notice of motion on 01.11.2021, the following contentions were noted:-

“Inter alia contends that by virtue of the order passed in CWP-PIL No.77 of 2021 and the interim orders passed possession of the residential premises under the SARFAESI Act, 2002 cannot be taken till further orders. It is submitted that vide notice dated 27.09.2021, the police help has been asked for possession of the mortgaged property (Annexure P-4).

Notice of motion for 15.11.2021.

Ms. Monica Chhibber, Sr. DAG, Punjab accepts notice on behalf of respondent No.3 and prays for time to seek instructions. Soft copy of the paper book be supplied to her during the course of the day.

Remaining respondents be served by way of dasti process for the date fixed.

In the meantime, the petitioners shall not be dispossessed from the house in question till the next date of hearing.”

4. In the written statement filed it has also been mentioned that due regard has been given to the order passed by this Court and the possession was not interfered with. It is a matter of record that on 07.03.2022 all interim orders duly stood vacated in CWP-PIL No.77 of 2021. Resultantly, position is changed and we are of the considered opinion that there is an alternative and efficacious remedy available, if the petitioners wish to challenges the notice

issued under Section 13 (4) in accordance with law before the Debts Recovery Tribunal.

5. Resultantly, the present writ petition stands disposed of with the aforesaid liberty. The interim order will remain in operation for a period of two weeks from today to enable the petitioner to approach the Tribunal and thereafter the Tribunal may decide the application for stay as per law.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

04.05.2023
Naveen

Whether speaking/reasoned :	Yes	
Whether Reportable :		No