

219 (8 cases)

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

1.

CWP-8142-2017 (O&M)
Date of Decision:23.08.2023

Jagjit Singh & others

Versus

State of Haryana and others

.....Petitioners

.....Respondents
2.

CWP-2117-2020 (O&M)

Dharmender Singh & others

Versus

The State of Haryana and others

.....Petitioners

.....Respondents
3.

CWP-2970-2020 (O&M)

Sahib Singh

Versus

The State of Haryana and others

.....Petitioner

.....Respondents
4.

CWP-9514-2022 (O&M)

Moni and others

Versus

State of Haryana and others

.....Petitioners

.....Respondents
5.

CWP-19505-2022 (O&M)

Naresh Bhargav and others

Versus

State of Haryana and others

.....Petitioners

.....Respondents

CWP-8142-2017 and connected cases 2 2023:PHHC:110847

6.

CWP-19159-2022 (O&M)

Nirmala Devi and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

7.

CWP-24701-2022 (O&M)

Jai Bhagwan and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

8.

CWP-2144-2023 (O&M)

The PGI Investors Welfare Trust (Regd.)

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Dinesh Rawat, Advocate for the petitioner(s).

Mr. Vishal Malik, D.A.G. Haryana.

Mr. Ankush Rampal, Advocate for

Mr. Kushagra Mahajan, Advocate for respondents No.3 to 5 and 10
in CWP-8142-2017.

VINOD S. BHARDWAJ J.(Oral)

1. The present batch of writ petitions are being disposed of by a common

order as learned counsel for the petitioner(s) contends that the grievance raised by the petitioner(s) in all these writ petitions are identical.

2. It is contended that the petitioner(s) had made investment with the company promoted by respondents No.3 to 9 and that the said company failed to return the investment on expiry of the period of maturity despite assurance. A written complaint was submitted by the petitioner(s) to the office of Deputy Commissioner, Panipat, for initiating proceedings under Section 3 of the Haryana Protection of Interest of Depositors in Financial Establishment, Act 2013 (hereinafter to be referred to as Act of 2013) and for attachment of all the assets of respondents No.3 to 12 as per mandate of the governing Act and attaching the property held by the company/promoters in its own name or any other person as well. Notwithstanding that the respondents were seized of the matter, there was an inordinate inexplicable delay caused by the officials to prejudice the rights of the petitioner and compelling them to approach this Court for seeking directions to the respondents to act in accordance with law.

3. Learned State counsel has made a reference to the affidavit dated 27.08.2022 filed by Sushil Sarwan, the then Deputy Commissioner, Panipat wherein details with respect to the pace of investigation and steps taken in furtherance of the provisions of the Act of 2013 have been given. The relevant extract thereof reads thus:-

The Enquiry Officer had particularly pointed out that the complainant had failed to produce details of the properties of the above mentioned persons within the territorial of limits of District Panipat. However, the complainant had submitted the details/documents of the properties situated in the territorial limits of

District Mathura (Uttar Pradesh) and hence, it is not possible to attach the property of the persons. The enquiry report dated 30.06.2017 has already been submitted before the Hon'ble High Court as Annexure R1 with the earlier affidavit submitted by the predecessor of the answering respondent in the year 2017.

d. That the then Deputy Commissioner, Panipat had not satisfied with the enquiry report because various aspects of the complaint remain un-answered. Therefore, Enquiry Officer had directed to re-enquire into the matter and submit a clear observation after considering all aspects within three weeks vide letter No.3444/PB dated 15.12.2017.

The Superintendent of Police, Panipat vide letter No.3445/PB dated 15.12.2017 was intimated to submit the present status of FIR No.127 dated 30.01.2017 under Sections 420 and 406 Police Station City, Panipat.

e. That in response thereof, the Superintendent of Police, Panipat vide letter No.1104 dated 16.01.2018 submitted detailed report stating therein that investigation is going on in the matter. Now, the trial is pending the Ld.Trial Court and the same is fixed for 23.08.2022 for prosecution evidence.

f. That the Enquiry Officer had again submitted its report vide letter No.2200/reader dated 07.05.2018, wherein, he had communicated that the complainant had leveled allegations against 7 persons. Enquiry Officer also gave its finding that the complainant had failed to produce the details of property of the these 7 pesons

within the territorial of limits of District Panipat. Accordingly, the details/documents of the property as provided by the complainant situated within the territorial limits of District Mathura (Uttar Pradesh) and hence, it is not possible to attach the property of the persons/respondents. However, the Enquiry Officers has reported that ther is only 50 square years land in the name of the Smt.Seema Bansal w/o Manoj Kumar Bansal in 'Patti Taraf Insar' area of Panipat. The copy of the enquiry report dated 07.05.2018 has already been submitted before the Hon'ble High Court as Annexure R-4 with the earlier affidavit submitted by the predecessor of the answering respondent in the year 2018.

g. That on the basis of the report of the Enquiry Officer, the then Deputy Commissioner, Panipat, vide letter No.2090/PB dated 20.06.2018 had directed the Tehsildar, Panipat, to attach the property of Smt. Seema Bansal w/o Manoj Kumar Bansal R/o 738/8, New Ramesh Nagar, Panipat till finalization of dispute. The copy of letter No.2090 dated 20.06.2018 has already been submitted before the Hon'ble High Court as Annexure R-5 with the earlier affidavit submitted in the year 2018.

h. That the then Deputy Commissioner, Panipat had also directed the Sub Divisional Magistrate, Panipat vide letter No.2116 dated 11.07.2018 to take necessary action to attach the property in question as per the provisions of the Haryana Protection of depositors in Financial Establishment Act, 2013 after providing opportunity of hearing to both the parties. The copy of letter No.2116 dated

11.07.2018 has already been submitted before the Hon'ble High Court as Annexure R-6 with the earlier affidavit submitted in the year 2018.

i. That the copy of the complaint, the enquiry report and the Police Report was also forwarded to the Ministry of Company Affairs (MCA), the Registrar of Company (RoC) and the District Magistrate, mathura (Uttar Pradesh) from this office.

3. That is is respectfully submit that the answering respondent has joined as Deputy Commissioner, Panipat on 04.06.2021 and when the present petition came in the knowledge of the answering respondent, keeping in view the interest of the depositors, report was sought from the concerned District Magistrate, Mathura (Uttar Pradesh) for attachment of the property mentioned in Deed No.4032 dated 13.04.2016 and deed No.4033 dated 13.04.2016 purchased in Mathura by two partners of the M/s Wellmark Real Estate Limited, Sunil Kumar S/o Dharambir R/o 269 Kabri Road, Panipat and Sandeep S/o Jagdeep R/o 525/5 Lal, Darwaja Sonipat. The copy of letter No.1677/PB dated 25.07.2022 is enclosed herewith as Annexure R-A.

4. That the District Magistrate Mathura (Uttar Pradesh) has intimated that the matter was got enquired through Sub Registrar, Mathura and Enclosed the report of Enquiry officer i.e.Sub Registrar, Mathura, conducted upon the complaint moved by the petitioner/complainant Jagjeet Singh s/o Sh.Tara Singh R/o House No.208 village Untla, District Panipat vide letter No.1040/A.D.M. (A)-S.T./2022 dated 10.08.2022.

The Sub Registrar Mathura has submitted the report to Distgrict Magistrate, mathura and informed that as per record the land has been purchased by the partners namely Sunil Kumar S/o Shri Dharamvir House No.269 Kavedi Road, near Dada Khera, Bharat Nagar Panipat Haryana and Sandeep Kumar S/o Shri Jagdish Singh resident of 526/5 Lal Darwaja Sonapat Haryana vide Deed No.4032 dated 13.04.2016 and 4033 dated 13.04.2016 respectively. And it has been found that above mentioned both of the Deeds are being registered in the office of Sub Registrar, Mathura, Deed No.4032 at Volume No.7725 from page 30 to 70 and Deed No.4033 at Volume No.7725 from page 71 to 108 on date 13.04.2016. In both of the sale Deeds, respective sellers are Tripurari Builders Pvt.Ltd.Kanha Infra Promoters Pvt. Ltd.Dauji Ashiana Pvt. Ltd. Subsidiary Company of Kalptaru Buildtech Corporation represented Prahlad Singh S/o Shri Lal Singh resident of Saraswati Kund, Govindpuram Tarkar Market Mathura.

It has been further informed that enquiry are being conducting by the Enforcement Directorate, Government of India against Kalptaru Buildtech Pvt. Ltd. (KBPL) and its associate companies, vide letter No.208/S.R. Second/2022 dated 05.08.2022. True translated copies of the letter No.1040/A.D.M. (A)-S.T./2022 dated 10.08.2022 of District Magistrate, Mathura and letter No.208/S.R. Second/2022 dated 05.08.2022 of Sub Registrar, Mathura along with list provided by Sub Registrar, Mathura are attached herewith as Annexure R-B for kind perusal of Hon'ble Court.

5. *That in additional to this, the Sub Divisional Magistrate Panipat was directed vide letter No.1676/PB dated 25.07.2022 to status report qua the attachment of property has been sought qua the property mentioned in Annexure P-12 alleged to be existed in the name of respondent No.3 to 12 and to proceed in the matter in hand before the designated court. True translated copy of the letters No.1676/PB dated 25.07.2022 is attached herewith as Annexure R-C.*

6. *That the Sub Divisional Officer (Civil)-cum-Sub Divisional Magistrate, Panipat vide letter No.821/Peshi dated 18.08.2022 has submitted report that the respondent No.6 namely Seema Bansal w/o Manoj Kumar has already sold the property i.e. House No.738/8 New Ramesh Nagar, Panipat to Badan Singh S/o Sh. Dhara Singh vide sale deed No.2185 dated 10.06.2022. Due to this reason the property mentioned above could not be attached. True translated copy of letter No.821/Peshi dated 18.08.2022, report dated 18.08.2022 submitted by the Tehsildar, Panipat to Sub Divisional Magistrate, Panipat and Sale deed No.2185 dated 10.06.2022 are attached herewith as Annexure R-D (colly).*

7. *That after perusal of the above mentioned reports, the Tehsildar, Panipat was again directed to submit status of ownership of property mentioned in the list of the property (Annexure P-12) vide letter No.2063/PB dated 18.08.2022.*

8. *That the Tehsildar, Panipat has submitted the report that verification regarding the property mentioned in point No.1 in the name mentioned in point No.1, accused No.1, accused No.2 and*

accused No.9, it has been found that Sushil Kumar S/o Dharambir S/o Bal Singh was residing 3-4 years ago at house NO.269 Bharat Nagar, Kabri Road. Presently, Sushil Kumar residing at Village Dera Machuri. Dharambir S/o Bal Singh is residing in the above house no.since 20 years but he refused to show any document/registered deed vide which it cannot be clear that above Dharambir is himself the owner of the above house. As per revenue record, no agricultural/non agricultural land has been found in the name of Sushil Kumar S/o Dharambir and Dharambir S/o Bal Singh.

The Tehsildar, Panipat has informed that as per Jamabandi for year 2015-16, Manoj Kumar Bansal S/o Chamal Lal is the owner of 73/19200th share, 7 biswansi, out of total land of 4 bigha 16 biswa comprized in Khewat No.225 taraf patti insar. In addition to this, his wife namely Seema Bansal is the owner of 41/5040th share, 0 Bigha, 1 Biswa 0 Biswansi out of 6 Bigha 6 Biswa 0 Biswansi in Khewat NO.268 taraf patti insar. Except the above property, no agricultural/non agricultural land has been found in the name of Manoj Kumar Bansal S/o Chamal Lal and Seema Bansal.

The Tehsildar, Panipat has further reported that no any kind of property has been found to be existed which is mentioned in the annexure P-12 vide letter No.506/OK dated 22.08.2022. The true translated copy of Tehsildar, Panipat letter No.506/OK dated 22.08.2022 is attached herewith as Annexure R-E.

9. *That on perusal of the above mentioned reports, the Tehsildar, Panipat, has been written to explain his position for non*

attachment of the property i.e.House NO.738/8, New Ramesh Nagar, Panipat owned by Seema Bansal (respondent No.6) due to which the respondent NO.6 i.e. Seema Bansal has sold the above mentioned property in spite of pendency of present petition before this Hon'ble High Court. And for concealment of prperty/land owned by Manoj Kumar Bansal. The true translated copy of this office letter No.2073/Peshi dated 22.08.2022 is attached herewith as Annexure R-F.

10. *That the Tehsildar, Sonipat in continuation of this office letter No.2064/PB dated 18.08.2022 vide which report qua the property mentioned at serial No.1 in Annexure P-12 i.e.House NO.525/5 Lal Darwaja, Sonipat, Haryana owned by accused No.8 namely Sarvesh Kumar Singla S/o Mangat Ram, has been sought.*

The Tehsildar, Sonipat has submitted report that the property i.e.House No.525/5 Lal Darwaja, Sonipat, Haryana belonging to Sandeep Kumar S/o Jagjeet Singh was compared at spot with revenue record of Sonipat patti Musalman. Its verification is not possible as above Khasra No.6507/3874 (663 Bigha, 6 Biswa) Patti Musalman is situated and entered within the residential area (Abadi Deh.). No Private ownership has been entered in revenue record in the above Khasra no.while the total area of 663 Bhiga-06 Biswa has been mentioned in the revenue record. True translated copy of Tehsildar, Sonipat report letter No.847/OK dated 22.08.2022 is attached herewith as Annexure R-G.

11. *That vide this office letter No.1501/PB dated 08.07.2022 and*

a reminder request letter No.1876/PB dated 03.08.2022 the Additional Chief Secretary and Financial Commissioner, Revenue & Disaster Management Department, Government of Haryana, Chandigarh has been requested to provide the copy of order/notification vide which 'Designated Court' has been constituted under the provisions of section 9(1) of Haryana Protection of Interest of depositors in Financial Establishment Act, 2013. So that, further necessary action may be taken accordingly by the answering respondent. True copy of above letter No.1501/PB dated 08.07.2022 and a reminder letter NO.1876/PB dated 03.08.2022 are attached herewith as Annexure R-H (colly).”

4. A perusal of the aforesaid shows that even though the complaint in question has been received by the respondents in February 2017, however, the effective steps were put in place only in the year 2022. There is no satisfactory explanation furnished by the respondents for their failure in not taking swift action.

5. Learned counsel for the petitioner(s) however, contends that notwithstanding the delay already committed, the interest of the petitioner(s) would be well served if appropriate and adequate measure are taken now, swiftly and in a time bound manner so that further prejudice to the interest of petitioner(s) can be averted.

6. Learned counsel for the respondent(s)-State has no objection to such suggestion and order.

7. The present writ petitions are thus disposed of with the consent of the parties and without commenting on the merits thereof and without prejudice to

respective rights with liberty to the petitioner(s) to approach the office of District Magistrate, Panipat within a period of four weeks furnishing details of the properties held by the private respondents, if any, and upon submission of such details, the office of respondent No.2 i.e. Deputy Commissioner, Panipat, shall ensure that expeditious decision and action is taken thereupon in accordance with law and after affording an opportunity to the concerned parties, in a time bound manner and preferably within a period of four months from the receipt of such details.

8. At the same time, the respondents shall also keep in consideration that various sale instances qua the property owned by the private respondents relate to the year 2022. Hence, appropriate enquiry, as to whether the sale instances are *bona fide* or not and as to whether they would fall within the definition of the property held by the financial institutions in the name of other persons or not shall also be conducted and an appropriate order shall be passed after affording hearing to the respective parties as well.

9. It has also been informed by the State counsel that Deputy Commissioner has taken cognizance of the inordinate delay caused by the authorities in passing orders of attachment. It is expected that appropriate action as per law shall be taken to a logical end against the erring officials.

10. Petitions disposed off in terms aforesaid.

11 All the pending miscellaneous application(s), if any, shall also stands disposed of.

(VINOD S. BHARDWAJ)
JUDGE

23.08.2023

shweta

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