

114 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-21198-2023
Date of Decision : November 29, 2023

NARINDER SINGH Petitioner

Versus

BANK OF INDIA AND OTHERS Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr. Pardhuman Garg, Advocate for the petitioner.

Mr. Gaurav Goel, Advocate for the respondent – Bank.

LISA GILL, J.

1. Prayer in this writ petition is for quashing notice dated 05.09.2023 (Annexure P4) issued by respondent No. 1 on the premise that one of the properties belonging to petitioner, who is Guarantor of loan in question, is agricultural land.

2. Learned counsel for petitioner submits that notice under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short – ‘SARFAESI Act’) was issued on 23.09.2019. Symbolic possession of property was taken. Impugned auction notice dated 05.09.2023 has been issued in an absolutely illegal and arbitrary manner whereas property registered through Vasika No. 871 is agricultural land and that registered through Vasika No. 816, is a residential house. It is, thus, prayed that this writ petition is allowed.

2. Learned counsel for respondent – Bank (on advance notice) seeks dismissal of writ petition on the question of entertainability as well as merits of the matter.

3. Heard learned counsel for the parties.

4. Availing of loan/financial facility by respondents No. 2 to 6 and subsequent financial indiscipline on their part is a matter of record. Petitioner is a guarantor for the loan in question. On a pointed query, learned counsel for petitioner concedes that objections were not filed by petitioner subsequent to notice dated 23.09.2019 under Section 13(2) of SARFAESI Act. It is further informed that sale of property in question did not take place pursuant to notice dated 05.09.2023. Apart from the fact that present writ petition is not entertainable in view of statutory remedy available to petitioners, it is to be noticed that this writ petition, in any case, is rendered infructuous as sale pursuant to notice dated 05.09.2023 has not fructified.

5. Writ petition is, accordingly, disposed of as infructuous. Needless to say, petitioner is at liberty to avail statutory remedy(ies) available to him in accordance with law, if so aggrieved of any action taken against him under SARFAESI Act by respondent – Bank.

6. It is clarified that there is no expression of opinion on merits of the matter or even entertainability thereof.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

November 29, 2023

Rts

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