

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

112

2024:PHHC:007097

CWP-1200 of 2024

Date of decision : January 19, 2024

Anjala Sahni and another

..... Petitioners

Versus

The Deputy Commissioner, Ambala and others

..... Respondents

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

Present :-Mr. Nitin Jain, Advocate
for the petitioner.

Mr. Vivek Saini, Addl. A.G. Haryana.

VINOD S. BHARDWAJ, J (Oral)

1. The petitioner has challenged the order passed by the Deputy Commissioner, Ambala whereby a passage to the other property of the petitioner has been claimed to be stopped.

2. Learned counsel for the petitioner does not dispute that the aforesaid area falling in the passage was also a part of the mortgaged property with the respondent bank and had been auctioned on 'as is where is' basis. The question as to whether any easement right exist in favour of petitioner or not can only be determined by leading evidence and cannot be outrightly decided in summary proceedings by the High Court.

3. Learned counsel for the petitioner further raised an argument with respect to the competence of the District Magistrate to pass the said order. He, however does not dispute that the civil court would be fully competent to

examine the issue of the authority vested in the District Magistrate to pass the

said order. It is well settled in law that if an authority exercises a power not vested or is beyond its jurisdiction, the same is amenable to jurisdiction of a civil court.

4. Since the issue involves disputed questions of fact and an efficacious remedy including raising a challenge to the said order passed by the Deputy Commissioner/District Magistrate, Ambala would be available to the petitioner before the civil court, it would rather be expedient and in fitness of things that the petitioner exhausts his alternate remedies.

5. The present writ petition is disposed of at this stage with liberty to the petitioner to approach the competent authority and to pursue his remedies available as per law.

(VINOD S. BHARDWAJ)
JUDGE

January 19, 2024
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Whether speaking/reasoned	Yes
Whether Reportable :	No