

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

2024:PHHC:073842-DB



(223)

CWP-5670-2021(O&M)
Date of Decision: 23.05.2024

Cholamandalam Investment & Finance Co. Ltd.

--Petitioner

Versus

District Magistrate-cum-Deputy Commissioner & Ors. --Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL.
HON'BLE MS. JUSTICE AMARJOT BHATTI.

Present:- Ms. Puja Chopra, Advocate for petitioner.

Mr. P.S. Bhandari, AAG, Punjab.

Mr. Arvind Moudgil, Advocate for respondent no.5
(through V.C).

LISA GILL.J (Oral)

Prayer in this petition is for directing respondents no.1 to 4 to proceed and take appropriate legal action under Section 14 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (for short SARFAESI Act) and take possession of mortgaged property/secured assets in compliance of order dated 25.11.2020 (Annexure P-3) passed by respondent no.2 ignoring the order dated 12.09.2017 (Annexure P-5) passed by the Adjudicating Authority under the Prevention of Money Laundering Act, 2002 (for short 'PML Act').

2. Learned counsel for petitioner is unable to deny that property in question stands attached by respondent no.5 vide order dated 12.09.2017. Financial facility/credit in question had been taken by borrowers for a sum of Rs.1,70,00,000/- on 31.08.2016 ECIR No.ECIR/CDZO/06/2016 was

issued on 19.09.2016. Order of provisional attachment of property was passed on 12.09.2017. Account in question was declared Non Performing Asset (NPA) on 07.01.2020 with notice under Section 13(2) of SARFAESI Act being issued on 21.01.2020 and possession notice under Section 13(4) of SARFAESI Act on 08.09.2020. Order under Section 14 of SARFAESI Act in favour of petitioner-financial institution was passed on 25.11.2020. One of the borrowers approached this High Court by way of filing CWP-14183-2018 challenging order dated 12.09.2017, passed by the Adjudicating Authority under 'PML Act'. The said writ petition was dismissed as withdrawn on 30.05.2018 while affording liberty to the said petitioner to avail remedies available in accordance with law. Copy of this order is attached as Annexure P-7 with this writ petition. Paras 2 and 3 of order dated 30.05.2018 read as under:-

“2. Be that as it may, so long as the order passed by the Adjudicating Authority qua the property in dispute sustains, the petitioner cannot question the consequential actions. Faced with this, learned counsel for the petitioner seeks to withdraw the writ petition with liberty to file statutory appeal under Section 26 of the 2002 Act being an 'Aggrieved Person' within the ambit of the said provision of the 2002 Act.

3. Ordered accordingly. The writ petition is dismissed as withdrawn with liberty to the petitioner to file the statutory appeal. Since by now delay has occurred in filing the appeal, the petitioner may seek condonation of delay and such an application may be considered by the Appellate Authority sympathetically. With a view to enable the petitioner to avail the above-stated remedy, it is directed that status quo re: possession be maintained for one week.”

3. Learned counsel for petitioner submits that as the property in question indeed stands attached by respondent no.5, liberty be afforded to the petitioner too, to avail of the statutory remedy of filing appeal.

4. In view of the facts and circumstances above, present petition is dismissed with liberty to the petitioner to file statutory appeal along with application for condonation of delay, if any, in accordance with law as may be permissible.

5. Pending application(s), if any, shall also stand disposed of.

(LISA GILL)
JUDGE

22.05.2024
lucky

(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No