

CWP-5931-2024 (O&M)
Date of Decision: 14.10.2024.

...Petitioner.

...Respondents.

**CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Mr. Gaurav Goel, Advocate for respondent-bank.

LISA GILL, J. (Oral)

1. Prayer in this writ petition is for directing respondents No.2 to 4 to release possession of the property in question.
2. It is submitted that present petitioner purchased the property i.e. 120 square yards and 60 square yards from Rekha Rani (respondent No.3) and Jaspreet Singh (respondent No.4) vide two separate sale deeds. The petitioner was informed that property in question is free from any kind of encumbrance. It is stated that however respondent-bank issued possession notice dated 18.04.2023 and possession thereof was taken allegedly in an illegal manner despite no lien being marked on the property. Legal notice dated 23.07.2023 was served upon respondent-bank by the present petitioner. As per reply dated 03.08.2023 to legal notice by respondent-bank, it is stated that credit facilities had been availed of from the bank by one M/s Dureja Cattle Feed Industries. Various properties including the

property in question was mortgaged with the bank with original title deed in its possession and that action under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, SARFAESI Act) has been correctly taken. Possession of property has been rightly taken in accordance with provision of SARFAESI Act.

3. Present petition has thereafter been filed by the petitioner, being aggrieved thereof.

4. Learned counsel for the petitioner vehemently argues that petitioner is neither the borrower or guarantor in respect to the loan account in question. He is the bona fide purchaser of the land in question. Therefore, possession of the property be restored to him. He further submits that property is not registered under CERSAI.

5. Learned counsel for respondent-bank (on advance notice) has opposed the writ petition while submitting that an alternative remedy is available with the petitioner in respect of grievance(s) as raised in this writ petition. Possession of the property has been taken in due process of law and as of now the property has not been put to auction and that even on merits, no case is made out in favour of the petitioner.

6. Having heard learned counsel for the parties, we do not find any ground to interfere in this writ petition. It is a settled position that interference by this Court in exercise of jurisdiction under Article 226 of Constitution of India in such like matters has to be minimal and actuated only in extra-ordinary and exceptional circumstances. Gainful reference in this regard can be made to judgments of Hon'ble the Supreme Court in **Union Bank of India v. Satyawati Tandon and others, 2010(8) SCC 110;** **Varimadugu Obi Reddy Vs. B. Sreenivasulu and others, 2023 (1) R.C.R.**

(Civil) 34 and M/s South Indian Bank Ltd. and others Vs. Naveen Mathew Philip and another, 2023 (2) RCR (Civil) 771.

7. Admittedly any person aggrieved of action taken under SARFAESI Act as in the present case has an efficacious remedy thereunder. Learned counsel for the petitioner is unable to point out any exceptional or extraordinary circumstances which call for interference in the matter.

8. No other arguments was raised.

9. Keeping in view facts and circumstances as above, writ petition is dismissed with liberty to the petitioner to avail statutory remedy(ies) as may be available to him in accordance with law. There is no expression of opinion on merits of the matter.

(LISA GILL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

14.10.2024

komal

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