



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

129

CR No.2818 of 2024
Date of Decision : 04.07.2024

Shubham KapoorPetitioner

VERSUS

Canara BankRespondent

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. J.K. Goel, Advocate for the petitioner.
Mr. Nitin Grover, Advocate for the respondent-Bank.

ALKA SARIN, J. (Oral)

1. The only grievance of the petitioner is that without there being any application, the order dated 26.02.2024 was passed on oral submission made by counsel for the parties.
2. Learned counsel for the petitioner would contend that while passing the order dated 26.02.2024 it has been held that the Civil Court has no jurisdiction however the case has been adjourned for filing of the written statement and reply to the stay application.
3. Mr. Nitin Grover, Advocate has put in appearance on behalf of the respondent-Bank. He is not in a position to dispute the fact that there was no application filed by the respondent-Bank and that while passing the order dated 26.02.2024 it has been virtually concluded that the Civil Court has no jurisdiction. Learned counsel for the respondent-Bank has contended that the petitioner is the owner of the property shown in blue colour in the site plan

appended with the plaint and that the respondent-Bank is only to take possession of the portion depicted as the portion of Rajiv Kapoor, which is shown in green colour, and not the property of the petitioner which has been shown to be the property in possession of Hardeep Kapoor marked in blue colour.

4. Learned counsel for the petitioner states that he would have no objection if the respondent-Bank proceeds qua the property shown in green colour which has been depicted to be in possession of Rajiv Kapoor and was subsequently sold to Satnam Singh.

5. The Trial Court, without there being any application, has passed the impugned order dated 26.02.2024 virtually concluding that the Civil Court has no jurisdiction. Without going into the merits as to whether the Civil Court has jurisdiction or not in view of the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act'), this Court is of the opinion that the Trial Court once having concluded that the Civil Court has no jurisdiction ought to have returned the plaint. It cannot on the one hand hold that the Civil Court has no jurisdiction and on the other hand decide to proceed with the matter.

6. In view of the above, the impugned order dated 26.02.2024 is not sustainable in law and is set aside.

7. In view of the statements made by learned counsel for petitioner and learned counsel for the respondent-Bank, the parties would be at liberty to bring these facts to the notice of the Trial Court who shall consider them

in accordance with law. It is made clear that the present order in no manner has decided the controversy in hand i.e. whether the Civil Court has jurisdiction in the matter pertaining to SARFAESI Act. The question is left open for the Trial Court to decide in accordance with law. Any observation made in this order shall not be treated as an expression of opinion on the merits of the case.

8. Present revision is disposed off in the above terms. Pending applications, if any, also stand disposed off.

**(ALKA SARIN)
JUDGE**

04.07.2024
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO