



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

112

CWP-14279-2024.

Date of Decision: 29.08.2024.

Johny Mathew

....Petitioner.

VERSUS

The Government of Haryana and others

....Respondents.

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Petitioner-Johny Mathew in person.

ANUPINDER SINGH GREWAL, J. (Oral)

The petitioner, who is present in person, submits that fraud had been played upon him and he has sought initiation of legal action including inquiry and penal damages against respondents No.3 to 7. He submits that he had secured a loan from PNB Housing Finance Limited for the purchase of a flat which was to be constructed by M/s Unitech Builders Limited. He further submits that respondents No.3 to 7 in collusion with each other have dispossessed him from the flat in the year 2023. There was a moratorium against M/s Unitech Limited and by taking advantage of the moratorium, the said builder did not execute the Conveyance Deed in favour of the petitioner. Furthermore, as the Conveyance Deed was not executed, the petitioner did not pay further installments after having paid the initial two installments.

2. Heard.

3. It is apparent that the petitioner appears to have entered into a tripartite agreement and secured a loan from PNB Housing Finance Limited for a sum of Rs.12,50,000/- in the year 2001 for purchasing a flat constructed by M/s Unitech Limited. He had paid either one or two installments and has not paid any amount thereafter. He has remained in possession of the flat for a period of about 22 years although he had paid only one or two installments. He is also stated to have challenged the order passed by the District Magistrate under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest, Act, 2002 (for short, 'SARFAESI Act', before the Debts Recovery Tribunal and his SA was dismissed, vide judgment dated 08.11.2013 (Annexure P-31). Appeal preferred by the petitioner against judgment dated 08.11.2013 was dismissed by Debts Recovery Appellate Tribunal, vide order dated 21.01.2015 (Annexure P-32). The petitioner had also approached other fora, including preferring a Civil Writ Petition No.12563 of 2015 seeking relief which was dismissed, vide order dated 29.06.2015 (Annexure P-33), passed by the Division Bench of this Court. The petitioner further preferred SLP, which was also dismissed by the Supreme Court on 27.07.2015 (Annexure P-34).

4. The petitioner had also preferred application under Section 17 of SARFAESI Act before Debts Recovery Tribunal-I, which was dismissed on 13.10.2015 (Annexure P-43). The petitioner then had challenged the order dated 13.10.2015 before the Debts Recovery Appellate Tribunal by preferring IA in Inward No.712/2013 in SA No.240/2015, which was dismissed in limine, vide order dated 01.12.2015 (Annexure P-45). He had also filed a

Review Application against the orders dated 08.11.2013 and 13.10.2015 before Debts Recovery Tribunal, which was also dismissed, vide order dated 10.06.2016 (Annexure P-47). The petitioner had also been proceeded against criminal contempt of Court on several occasions, wherein he tendered his unconditional apology.

5. There was a tripartite agreement between the petitioner (borrower), builder (Unitech) and the Financial Institution (PNB Housing Finance Ltd). Admittedly, the builder had handed over possession of the flat in 2001, which the petitioner occupied and enjoyed till 2023. The Financial Institution admittedly paid the loaned amount to the builder. The Financial Institution cannot be faulted for seeking recovery from the petitioner who was in possession of the flat. Any private dispute between the builder and the petitioner for non-execution of the Conveyance Deed cannot be agitated in this frivolous petition under Article 226 of the Constitution of India.

6. In view of the above, we do not find any merit in the instant petition which stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

(LAPITA BANERJI)
JUDGE

29.08.2024
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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No