

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

234

CWP-27255-2022 (O&M)

Date of decision: 04.04.2024

IDBI Bank Limited

.....Petitioner

VERSUS

Haryana Shahri Vikas Pradhikaran (Earlier known as Haryana Urban Development Authority) through its Administrator, Gurgaon and others

.....Respondents

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

Present: Mr. Tajinder K. Joshi, Advocate
for the petitioner.

Mr. Deepak Sabharwal, Advocate
for respondent No.1.

Mr. Akshay Bhan, Sr. Advocate with
Mr. Akhilesh Barak, Advocate and
Mr. Nishchaya Nigam, Advocate
for respondent No.2.

LISA GILL, J. (Oral)

1. Prayer in the writ petition reads as under :-

“(i) a writ in the nature of certiorari to quash the action of the Respondent No.1, sealing the property in question, being in violation of the provisions of the SARFAESI Act, 2002, as symbolic possession of property in question has already been taken by the Petitioner under Section 13(4) of the SARFAESI Act, 2002, on 02.07.2018, may kindly

be issued;

- (ii) a writ in the nature of mandamus directing the respondent No.1 to hand over the possession of the property in question along with all part and parcels of properties / movable assets, lying hypothecated with the petitioner and symbolic possession of which has already been taken by the petitioner, to the petitioner immediately to enable the Petitioner to conduct e-auction/sale of the secured assets as per the applicable laws, may kindly be issued;*
- (iii) a writ in the nature of mandamus directing the respondent No.1, not to sell or further lease and create any charge over the property in question without the consent of the petitioner, who is a secured creditor and sanctioned the credit facility to the respondent No.2 after No Objection and permission to mortgage letter was issued by the respondent No.1;*
- (iv) Any other suitable writ order or direction which this Hon'ble Court may deem fit and proper in the peculiar facts and circumstances of the case may also be issued."*

2. Learned counsel for the parties i.e. the petitioner, respondent No.1 and respondent No.2 represented by the RP, are *ad idem* that possession of the secured asset in question is with respondent No.1 i.e. the Haryana Shahri Vikas Pradhikaran and the matter is pending adjudication before the learned National Company Law Tribunal (NCLT) at Delhi. Proceedings, it is submitted, are being hampered due to order dated 07.12.2022 passed in this writ petition, wherein it has been directed that status quo in all respects, as on that day, shall be maintained by respondent No.1 with regard to subject property as well as the movable assets within it.

3. It is submitted that all the parties be permitted to raise all available pleas before learned NCLT itself and matter be adjudicated before

the said Forum in accordance with law.

4. Learned counsel for the parties submit that present petition in which prayer is for quashing action of respondent No.1, sealing the property in question, being in violation of the provisions of the SARFAESI Act, 2002, be disposed of with liberty to the parties to raise all the available pleas as above before the learned NCLT, New Delhi.

5. Keeping in view the consensual stand projected before us on behalf of all the parties, writ petition is disposed of accordingly without any expression of opinion on the merits of the matter.

(LISA GILL)
JUDGE

04.04.2024
Satyawar

(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No