

118

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

**CM-11474 of 2024 in/and CWP-14564 OF 2024 (O&M)
DATE OF DECISION: 29.07.2025**

RAHUL AND OTHERS**.....Petitioners****VERSUS****STATE OF PUNJAB AND OTHERS****.....Respondents**

**CORAM : HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV BERRY**

Present:- Mr.Rahul Bhargava, Advocate and
Mr. Kashav Chadha, Advocate, for the petitioner(s).

Mr. Gaurav Goel, Advocate and
Mr. Saurav Goyal, Advocate for the respondent No. 3/Bank.

Mr. Vipin Pal Yadav, Additional Advocate General, Punjab.

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SHEEL NAGU, CHIEF JUSTICE (Oral)

The petitioner is a co-sharer in the property measuring 162 Kanal and 07 Marla comprised in Khewat No. 1112, Khatoni No. 1483 to 1491 Jamabandi for the year 2008-2009 in the name of Mrs. Akanksha Kalra W/o Mr. Suman Kalra, vide Vasika No. 16 dated 02.04.2014 situated at Village Painchawali, Dera Sacha Souda Road, Near Malout Road, Opp. Sarhad Kesri, Fazilka (Punjab), out of which 09 Marla was mortgaged to secure loan extended to M/s S.K. Agros, Village, Jorki Kankarwali, Malout Road, Fazilka, Punjab. The petitioner has assailed e-Auction sale notice dated 22.05.2024 (Annexure P-5) primarily on the ground that without ascertaining the exact share, which was mortgaged, the joint property of 162 Kanal, 07 Marlas cannot be put to auction.



This Court while taking cognizance of this matter on 24.07.2024 directed that without carrying out the demarcation of land, the auction will not be held.

The learned counsel for the petitioner has referred to the order passed by the District Magistrate, Fazilka on 22.08.2023 under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short SARFAESI Act), which also refers to the demarcation of the secured asset, which needs to be conducted in a situation like the present one, especially in the absence of partition between co-sharers.

The Apex Court has time and again come down heavily on High Court for entertaining writ petitions in matters pertaining to SARFAESI Act. (Please see **Phoenix Arc Private Limited Vs. Vishwa Bharati Vidya Mandir and others, (2022) 5 SCC 345; G. Vikram Kumar Vs. State Bank of Hyderabad and others, (2023) 14 SCC 159**)

The aforesaid interim order dated 24.07.2024 has continued to subsist till date.

There are large number of disputed questions of fact, which will have to be gone into for adjudicating the dispute in question, which ought not to be done while exercising the powers of judicial review. This Court, thus, declines interference and relegates the petitioner to avail remedy before Debt Recovery Tribunal, which, if done within a period of 30 days from today, the DRT shall take up the matter and decide the same on merits, without dismissing the same on limitation alone.

Till DRT entertains the petition and decides on the question of interim relief afresh, the interim order passed on 24.07.2024 shall continue to protect the petitioner.



CWP-14564 OF 2024

However, the DRT while considering application under Section 17 of the SARFAESI Act shall not be prejudiced by this order, and shall be free to decide as whether the interim order continued by this order, needs to be extended further or not.

Therefore, the case is disposed of.

All pending Civil Miscellaneous application(s) stand disposed of accordingly.

(SHEEL NAGU)
CHIEF JUSTICE

(SANJIV BERRY)
JUDGE

29.07.2025
Kamal

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No