



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

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CWP-19344-2025.

Date of Decision: 14.07.2025.

Edelweiss Asset Reconstruction Company LimitedPetitioner.

VERSUS

District Magistrate, Patiala and othersRespondents.

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Harsh Chopra, Advocate for the petitioner.

ANUPINDER SINGH GREWAL, J. (Oral)

Learned counsel for the petitioner submits that the petitioner has been erroneously called to submit a reply to the complaint, which otherwise is not maintainable. He submits that the petitioner had been assigned the loan, which was disbursed by HDB Financial Services *inter alia* to respondents No.4 and 5. The petitioner had initiated proceedings under the SARFAESI Act, for recovery of the loan amount. An order had been passed by the Additional District Magistrate, Patiala under Section 14 of the SARFAESI Act, on 29.04.2022 (Annexure P-3), which had later been recalled him, vide order dated 22.08.2022 (Annexure P-7). The petitioner had challenged the order of recall dated 22.08.2022 by preferring CWP No.24636 of 2022 and

this Court, vide order dated 27.05.2024 (Annexure P-11), had set aside the order dated 22.08.2022 of the Additional District Magistrate and restored the previous order dated 29.04.2022, whereby application under Section 14 of the SARFAESI Act, had been allowed. Thereafter, respondents No.4 and 5 have erroneously preferred a complaint before respondent No.1-District Magistrate, Patiala, for initiating proceedings under Section 340 Cr.P.C., against the petitioner, purportedly on the ground that a false affidavit had been filed before the Magistrate. He, however, submits that the District Magistrate, while deciding application under Section 14 of the SARFAESI Act, does not perform any adjudicatory function, and is merely performing a ministerial act, and, therefore, proceedings under Section 340 Cr.P.C., would not be maintainable with regard to an application under Section 14 of the SARFAESI Act. He has referred to the judgment of the Delhi High Court in **Crl. M.C. No.1723 of 2024—M/s Cholamandalam Investment and Finance Company Limited vs. Mahesh Taneja and others, passed on 01.07.2024.**

Issue notice to respondents No.1 to 3 only at this stage.

At the asking of the Court, Mr. Aftab Singh Khara, Senior Deputy Advocate General, Punjab, accepts notice on behalf of respondents No.1 to 3. He submits that the petitioner has only been asked to file his reply and the formal notice under Section 340 Cr.P.C. is yet to be issued, as is evident from a perusal of Annexure P-16.

After hearing learned counsel for the parties, we are of the considered view that this petition is premature, at this stage, as the application

has not been decided by the District Magistrate till date. The petition is disposed of with a direction to the concerned District Magistrate to consider and decide the application in accordance with law, after affording an opportunity of hearing to the petitioner.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

14.07.2025

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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No