



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

116

CWP-33681-2025

Date of Decision: 01.12.2025

TATA CAPITAL HOUSING FINANCE LIMITED**PETITIONER****VS.****STATE OF PUNJAB AND OTHERS****RESPONDENTS**

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

Present:- Ms. Puja Chopra, Senior Advocate with
Ms. Palak Sharma, Advocate, for the petitioner.

Mr. Vipin Pal Yadav, Addl. A.G. Punjab.

SANJIV BERRY, J.

1. The instant writ petition has been preferred by the Non-Banking Financial Company (as per Section 2(1)(m) (iv) read with Section 31 (A) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as SARFAESI Act) seeking issuance of writ of mandamus directing respondent No.1 to 4 to take appropriate legal action expeditiously under Section 14 of the SARFAESI Act and to deliver the physical possession of the secured asset in compliance of the order dated 30.12.2022 (Annexure P-3) passed by Additional District Magistrate, Ludhiana (respondent No.2).

2. It is *inter alia* contention of the learned counsel for the petitioner that despite the order under Section 14 of the SARFAESI Act 2002 dated 30.12.2022 (Annexure P-3) having been passed by Additional District Magistrate

Ludhiana (respondent No.2) the execution thereof has not been carried out by respondent No.3, primarily on account of some civil suit having been filed by brother of the borrower titled as “*Surinder Kumar Shah vs. Sanjay Kumar, CS-5688/2020*” wherein on an application under order 39 Rule 1 & 2 read with Section 151 CPC an injunction has been granted vide order dated 02.07.2022 (Annexure P-7). He contends that this civil suit has been got filed by the borrower just to prevent lawful recourse taken by the petitioner under the SARFAESI Act for taking possession of the secured assets, hence the petition.

3. After considering the submissions, it transpires that undoubtedly neither the plaintiff in the aforesaid civil suit namely Surinder Kumar Shah has been impleaded as party in the present writ petition nor the petitioner has got itself impleaded as party in the aforesaid civil suit pending in the Court of Civil Judge, (Jr. Div.) Ludhiana. The stand taken by the petitioner qua the filing of the aforesaid civil suit being in-collusion with the borrower are the allegations which cannot be decided in the present writ petition under Article 226 of the Constitution of India. Further as stated above neither the said plaintiff in the civil suit is impleaded as party in the present petition nor the petitioner company has got itself impleaded as party in the aforesaid civil suit, therefore, appropriate recourse for the petitioner Company would be to approach the Civil Court, Ludhiana and move an application for its impleadment as party in the aforesaid civil suit, as well as move an application for vacation of the *ad interim* stay and for rejection of the plaint under Order 7 rule 11 CPC.

4. Therefore, in these circumstances, the instant writ petition is hereby disposed of with the direction that if the aforesaid applications are moved by the petitioner company before the concerned Civil Court at Ludhiana where the aforesaid civil suit is pending then in such circumstances the same be considered



and disposed of on the merits thereof by the concerned Court in accordance with law preferably within a period of 2 months from the filing of such application.

5. Petition stands disposed of accordingly.

(SANJIV BERRY)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

Dated: 01.12.2025
Gyan

i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No