

2025:PHHC:179741-DB



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

**CACP-131-2025 (O&M)
DECIDED ON:31.12.2025**

SURINDER SINGH**.....APPELLANT****VS.****ASSESTS CARE AND RECONSTRUCTIONS ENTERPRISES LTD.****.....RESPONDENTS****CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL****CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

Present: Mr. Nikhil Thamman, Advocate
For the appellant (through Hybrid Mode)

Mr. Abhinav Sood, Advocate for
respondents/ACREL

Mr. Rajiv Verma, Addl. AG. Punjab

SANDEEP MOUDGIL, J.

1. The instant contempt appeal has been preferred under Section 19(1)(a) of the Contempt of Courts Act 1971 read with Rule 12 of Contempt of Courts, (Punjab & Haryana) Rules 1974 praying for quashing of impugned order dated 24.12.2025 passed by the Contempt Bench in COCP No.6346 of 2025 alleging the same is bad as the Contempt Court did not took into consideration that the appellant was not served with any advance notice of at least 15 days according to the guidelines prior to any attempt to take physical possession of the property.

2. It is averred before this Court on behalf of the appellant that he availed a housing loan in the year 2007 from India Bulls Housing Finance Limited now known as Sammaan Capital Limited against mortgage of his residential property

3. It is also averred that the said property is only residential house of the appellant and occupied by him alongwith entire family members, who are depending upon him.

4. It is further assertion of the appellant that on account of financial difficulties loan account came to be classified as a “Non Performing Asset” on 16.09.2017 for which demand notice dated 18.09.2019 under Section 13(2) of SARFAESI Act, 2002 (for short ‘Act of 2002’) was issued, which was followed by another notice under Section 13(4) of the aforesaid Act for symbolic possession.

5. Aggrieved against the aforesaid notices, the appellant preferred a CWP No.29779 of 2025 contending that peaceful possession cannot be taken and an application by the secured creditor under Section 14 of the Act of 2002 before the District Magistrate, Patiala, which was initially allowed but due to an error in description of the property a revised order under Section 14 of the said Act was passed on 03.02.2025 to the effect that the possession of the property of the loanee be got handed over to the Authorized Officer of the Concerned Bank within a period of 6 days. *Being aggrieved of the order dated 03.02.2025 (Annexure P-4),* the appellant also availed the statutory remedy under Section 17 of the Act of 2002 before the Debt Recovery Tribunal, which is still pending and has not yet been finally decided.

6. It is argued before this Court despite pendency of above-said proceedings before the Debt Recovery Tribunal the secured creditors approached this Court in writ jurisdiction vide CWP-29779 of 2025 seeking implementation of the order dated 03.02.2025, which was disposed off vide order dated 01.10.2025 with a direction to the respondent/authorities for executing the order under Section 14 of the Act of 2002 preferably within a period of 30 days with a clarification that such direction shall be subject to any restraint or interim order passed by a

Competent Judicial Forum. Thereafter secured creditor on account of non-compliance of the order dated 01.10.2025 approached the Contempt Court by COCP No.6346 of 2025, which was passed the following order dated 24.12.2025:

“Learned State counsel, on instructions from Mr. Manjit Singh, DST, Rajpura, submits that possession of the secured assets could not be handed over, as the police force was involved in a VIP movement. On a query having been raised as to why the possession can then be not handed over today, learned State counsel submits that as per the instructions received, the needful shall be done within a period of one week.

In the interest of justice, one final opportunity is granted for compliance of the orders passed by the Division Bench. List on 08.01.2026.

In case of non-compliance, the concerned Deputy Commissioner and the Senior Superintendent of Police shall remain present to explain as to why further proceedings be not carried in the instant contempt petition.

7. The Contempt Bench granting one final opportunity for compliance of the order passed by the Division Bench and adjourned the matter 08.01.2026 with a specific direction that in case of non-compliance, the concerned Deputy Commissioner and the Senior Superintendent of Police shall remain present to explain as to why further proceedings be not carried out in that contempt petition, which was necessitated on account of an excuse given by DST, Rajpura that possession of the secured assets as per the orders passed by the Division Bench could not be handed over, as the police force was involved in a VVIP movement and sought one week's time to do the needful.

8. It is at this stage aggrieved against the above-said order dated 24.12.2025, the present appeal came to be filed, which was heard by a co-ordinate

Division Bench on 26.12.2025, wherein though notice of motion was issued but no interim protection was granted.

9. It is contended by learned counsel for the appellant that after passing of the order dated 24.12.2025, he has received a notice from the respondents/authorities informing that the physical possession of the residential property shall be taken on 26.12.2025, which has been issued them given an advance notice of at least 15 days as required by the guidelines laid down by this Court causing eminent threat of forcible dispossession to the appellant and his family members.

10. Before parting with the order, we would record that amended memo of parties was required to be filed in view of the fact that State of Punjab was implemented through Deputy Commissioner/District Magistrate, Patiala as respondent No.2 on oral request of the counsel for the appellant on 26.12.2025 and the same was has not been filed so far. Though on that date itself, Mr. Neeraj Madaan, DAG Punjab and today Mr. Rajiv Verma, Addl. AG. Punjab is assisting the Court.

11. At this stage, it would be appetite to record that the order passed by the Co-ordinate Division Bench dated 01.10.2025 vide which the CWP No.29779 of 2025 was disposed of with a categoric observation that State functionaries have failed to discharge their statutory duty of assisting and handing over physical possession of the secured assets to the petitioner financial institution (respondent No.4 in the present appeal).

12. A categoric direction was issued in clear terms by writ of mandamus to the State authorities for executing the order dated 03.02.2025 passed under Section 14 of the Act of 2002 for handing over physical possession as expeditiously as possible preferably, within a period of 30 days by adopt all possible legitimate means to liquidate the secured asset for recovery of due amount.

13. The appellant did not challenge the said order or moved any application for recalling of the said order if his argument to the effect that the Division Bench order was passed on 01.10.2025 without hearing the appellant, which has actually attained finality. The act and conduct of the appellant do not inspire confidence for this Court, which lacks bona fide and in fact having not approached with clean hands as prima facie apparent on the record that he was actually following the legal proceedings from time to time in the dispute and has preferred the present appeal only after the Contempt Court issued the order dated 24.12.2025 against which the present appeal has been preferred once the appellant was cornered from all sides.

14. Even otherwise the period granted by the co-ordinate Bench in its order dated 01.10.2025 as preferably within a period of 30 days which came to an end on 31.10.2025 and the compliance to that order ought to have been made in the light of no restraint or any stay against that order from any Court of law in favour of the appellant.

15. In the light of above discussions made hereinabove, we do not find any infirmity or illegality in the order dated 24.12.2025 passed by the Contempt Court in COCP No. 6346 of 2025 as within its limited jurisdiction the Contempt Court cannot go beyond the directions and relief granted by the Court vide order dated 01.10.2025 which cannot be molded by the Contempt Court by any means whatsoever.

16. It also deserves to be noticed that the appellant is an admitted defaulter of the respondent-financial institution, whose loan account was declared a Non-Performing Asset as far back as on 16.09.2017. Despite availing the secured loan and enjoying the same for years, the appellant has failed to discharge his contractual and statutory obligations. Instead of regularizing the account or availing remedies in accordance with law in a timely manner, he has repeatedly adopted dilatory tactics with the sole object of retaining possession of the secured asset. The law does not

extend its equitable protection to a borrower who is in default and seeks to perpetuate illegality by obstructing the implementation of lawful orders passed under the SARFAESI Act, 2002. The conduct of the appellant, therefore, not only lacks bona fides but also amounts to an abuse of the judicial process.”

17. Hence the same is therefore, dismissed without any order to costs. All pending miscellaneous application(s), if any shall stand disposed off.

(SANDEEP MOUDGIL)
JUDGE

(YASHVIR SINGH RATHOR)
JUDGE

31.12.2025
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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |