IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(112+245)

CWP-289-2023 (O&M)
Date of decision:- 05.05.2026

Randhir Singh **... Petitioner**

Versus

Mahindra & Mahindra Financial Services Limited and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL
HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Aman Bansal, Advocate, for the petitioner.

Mr. Raghav Agnihotri, Advocate and
Ms. Roja Agnihotri, Advocate, for respondent No.1.

Mr. Anant Kataria, DAG, Haryana, for respondent No.3.

None for respondent No.4.

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SUVIR SEHGAL, J. (*ORAL*)

CM-1910-CWP-2025

1. Application is allowed, as prayed for.

2. Short reply filed on behalf of respondent No.1, is taken on record.

Main case

3. This petition has been filed, *inter-alia*, for issuance of a writ of certiorari quashing order dated 06.12.2022, Annexure P-8, passed by Tehsildar, Sonipat, whereby petitioner has been directed to vacate and handover the possession of the residential house. A writ of mandamus has also been sought for directing the respondents to enquire into the role of the bank officials, who allegedly failed to create any lien over the property after the loan was granted to private respondent No.5.

4. Mr. Aman Bansal, counsel for the petitioner submits that by virtue of agreement dated 13.10.2015, Annexure P-1, petitioner intended to purchase a residential house from respondent No.5 for a consideration of Rs.15 lacs, out of which Rs.8 lacs was paid as earnest money vide Annexure P-2. He states that when respondent No.5 did not execute the sale deed, a suit for specific performance was filed, but in the interregnum, the dispute was settled and a sale deed dated 22.01.2020, Annexure P-4, was executed and possession of the residential property was handed over to petitioner. Counsel points out that a mutation regarding the ownership of the property was entered in the revenue records, Annexure P-6. Counsel states that when a notice was affixed outside the property, petitioner came to know that by virtue of impugned order dated 06.12.2022, Annexure P-8, he had been asked to vacate the property and to hand over its possession to the financial institution-respondent No.1. Counsel submits that a criminal case has been lodged against the private respondent No.5. It is his contention that the impugned order has been passed in breach of principles of natural justice, as petitioner was neither served with any notice, nor any opportunity of hearing was afforded to him before impugned order was passed.

5. Counsel for respondent No.1 has opposed the writ petition and has argued that impugned order, Annexure P-8, has been passed pursuant to order dated 30.08.2022 passed by the District Magistrate, Sonipat under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short “the SARFAESI Act”). He submits that private respondent No.5 had availed a credit facility from respondent No.1 and on failure to fulfil his commitment, proceedings were

initiated under the SARFAESI Act, which have culminated in the passing of order dated 30.08.2022. It is his contention that the instant petition is not maintainable and remedy available to petitioner is to approach the Debt Recovery Tribunal (DRT) under Section 17 of the SARFAESI Act.

6. From the respective stands of the parties, it is evident that the impugned action has been taken pursuant to the proceedings initiated by respondent No.1 under the SARFAESI Act. In such circumstances, remedy available to petitioner is not to invoke the extra-ordinary writ jurisdiction of this Court, but to approach the DRT under the SARFAESI Act.

7. In view of the decisions of the Hon'ble Supreme Court rendered in ***Authorized Officer, Station Bank of Travancore and another Versus Mathew K.C., (2018) 3 SCC 85; ICICI Bank Limited and others Versus Umakanta Mohapatra and others, (2019) 13 SCC 497*** and ***PHR Invent Educational Society Versus UCO Bank and others, 2024 SCC OnLine SC 528***, present writ petition is not maintainable and is accordingly dismissed as such. Liberty is, however, granted to petitioner, if so advised, to avail the statutory remedy available to him under the SARFAESI Act.

(SUVIR SEHGAL)
JUDGE

(VIKAS SURI)
JUDGE

05.05.2026
Kamal

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes