(2020) 10 P&H CK 0066

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 15930 Of 2020

Punjab National Bank	APPELLANT
Vs	
State Of Punjab And Others	RESPONDENT

Date of Decision : 01-10-2020

Acts Referred:

Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 — Section 14

Citation : (2020) 10 P&H CK 0066

Hon'ble Judges : Daya Chaudhary, J;Meenakshi I. Mehta, J

Bench : Division Bench

Advocate : Arvind Rajotia, Sahil Sharma, Mohit Sadana

Final Decision : Disposed Of

Judgement

Daya Chaudhary, J

Petitioner-Punjab National Bank has filed the present petition for issuance of a writ in the nature of mandamus directing respondent No.2-the District Magistrate, District Hoshiarpur to pass appropriate orders for taking physical possession of the secured assets as per provisions of Securitisation and Reconstruction of Financial Assests and Enforcement of Security Interest Act, 2002. A further prayer has also been made for issuance of a direction to respondent No.5 i.e the Authorised Officer, Punjab and Sind Bank, Tanda Road, Hoshiarpur to handover the physical possession of the mortgaged property and to take appropriate action against borrowers.

Learned counsel for the petitioner submits that in spite of passing of more than four months, still no action has been taken by respondent No.2 i.e the District Magistrate, Hoshiarpur. Neither the physical possession of the mortgaged property nor any date has been given. The Authorized Officer of Punjab and Sind Bank had wrongly taken the possession of the property belonging to respondent No.3-Deepak Pal Singh by presuming the property of respondent No.4-Sarabjit

Kaur which was mortgaged with Punjab and Sind Bank. Learned counsel further submits that in case, the Authorized Officer of Punjab and Sind Bank takes further steps under the SARFEASI Act, 2002 (here-in-after referred to as `the Act, 2002), it will multiply the litigation. Learned counsel also submits that the Authorized Officer has supplied two copies of the application i.e one was given by hand and the other was sent through post but no Diary number was given. It is also the argument of learned counsel for the petitioner that the Authorized Officer has taken symbolic possession of the mortgaged property but physical possession has not been handed over. The mandatory provision to pass an appropriate order by respondent No.2 is 30 days. At the end, learned counsel for the petitioner submits that the petitioner would be satisfied, in case, the direction is issued to respondent No.2 i.e the District Magistrate, Hoshiarpur to pass an appropriate order so that the Authorized Officer can take the physical possession of the mortgaged property as per the Act, 2002.

Learned counsel for the respondent-State as well as learned counsel for respondents No.5 and 6 have no objection, in case, the present petition is disposed of with a direction as submitted by learned counsel for the petitioner.

Heard the arguments of learned counsel for the parties. We have also perused the documents available on the file.

Facts of the case as submitted by learned counsel for the petitioner are not disputed. Admittedly, the petitioner-bank i.e the Punjab National Bank sanctioned the financial assistance to both the respondents i.e respondent No.3-Deepak Pal Singh and respondent No.4-Sarabjit Kaur. Respondents no.3 and 4 mortgaged their two properties to the petitioner-Bank and said respondents were declared NPA on being not in a position to pay instalments as per their terms and conditions. A demand notice was sent to them as per provisions of the SARFEASI Act, 2002. The Authorized Officer had taken the symbolic possession of the mortgaged properties as per provisions of said Act. Thereafter, an application was moved under Section 14 of the SARFEASI Act, 2002 before respondent No.2 i.e the District Magistrate, Hoshiarpur. Due to confusion of two properties, no action has been taken, whereas, respondent No.2 was to take action for taking physical possession of the mortgaged property within a period of thirty days. It appears that the action has not been taken because the Authorized Officer i.e Punjab and Sind Bank had wrongly taken over the possession of the properties mortgaged with the petitioner-Punjab National Bank by presuming the property to be mortgaged by respondent No.4 with Punjab and Sind Bank. However, the concerned patwari vide his report dated 20.05.2020 clarified the description of the property mortgaged with Punjab National Bank and Punjab and Sind Bank. This aspect has not been disputed by learned counsel for the petitioner-Bank, private respondents No.3 and 4 as well as Punjab and Sind Bank.

Accordingly, by considering the facts enumerated above and just to avoid further litigation, the present petition is disposed of with a direction to respondent No.2 i.e the District Magistrate, Hoshiarpur to take action in accordance with law by passing an appropriate order by considering the report of the patwari concerned within a period of two weeks from the date of receipt of certified copy of the order.

However, respondent No.5 is also directed to hand over the physical possession of the mortgaged property to the Authorized Officer of Punjab National Bank thereafter.

