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(2023-4)212 PLR 001

PUNJAB AND HARYANA HIGH COURT

Before: Justice Vinod S. Bhardwaj

ATUL PAINTS – Petitioner,

Versus

ADDITIONAL DISTRICT MAGISTRATE, LUDHIANA – Respondents.

CWP-21296-2023

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002) Act, S. 14 - CrPC S. 340 - Pendency of several court cases pertaining to the mortgaged property had been communicated to the secured creditor from time to time by the borrower - Authorized officer of secured creditor in his affidavit before District Magistrate, under Section 14 of the SARFAESI Act, concealed the facts of litigations and stays granted in the same - Based on the said Representation District Magistrate passed order under Section 14 - Complaint before District Magistrate under Section 340 Cr.P.C. against the authorised officer for concealing material facts - No decision taken by DM - Directions issued to DM to decide the complaint under Section 340 Cr.P.C.

Er. Sandeep Suri, for the petitioner.

Vinod S. Bhardwaj, J. (Oral) - (07.11.2023) - The petitioner has approached this court for seeking directions to the respondent to decide the complaint dated 03.12.2022, (Annexure P- 10) filed under Section 340 Cr.P.C. against the authorised officer of M/s ASREC (India) Ltd. for concealing material facts regarding various court litigations and F.I.R. to District Magistrate, Ludhiana and obtained permissions fraudulently under Section 14 of SARFAESI Act from District Magistrate, Ludhiana vide Application/ MISAL No. 843/2022 dated 19.09.2022 and permission granted vide Endorsement No. 6552- 55/Peshi/ADC dated 27.10.2022.

2. It has been averred in the present petition that M/s ASREC (India) Ltd. issued a demand notice dated 11.04.2022 for Rs.26,96,23,532.70 informing regarding a notice under section

13(2) of the SARFAESI Act which was issued to petitioner on 04.05.2016. (ANNEXURE P-1). Petitioner later raised objections regarding denying service of notice dated 04.05.2016 issued by M/s ASREC (India) Ltd, but without considering the facts M/s ASREC (India) Ltd.'s authorized officer on 05.07.2022 issued notice under S. 13(4) of the SARFAESI Act. Aggrieved by the notice of symbolic possession under S. 13(4), the petitioner filed CWP-18679- 2022 dated 20.08.2022 under title "M/s Atul Paints & Anr. Versus Authorised officer ASREC (India) Ltd. & Anr.", in which notice of motion for 16.01.2023 was promulgated on 25.08.2022 (ANNEXURE P-3) which was duly received by the counsel for ASREC Ltd. Further the petitioner apprised the authorised officer M/s ASREC (India) Ltd. vide registered post dated 21.09.2022. Copy of the letter, postal receipt, delivery postal receipt is enclosed as (ANNEXURE P-4). Sister of the petitioner also proceeded to invoke the extraordinary writ jurisdiction of this court in CWP-4095-2023 under title "Aastha Ahluwalia V/s Authorised Officer M/s ASREC (India) Ltd. And others" wherein the District Magistrate, Ludhiana is also made a party. The Hon'ble High Court was pleased to grant "status quo" regarding all properties in question on 28.02.2023 (ANNEXURE P-5) and the same was conveyed to the respondent vide various representations and reminders dated 28.02.2023 and 18.03.2023 along with postal receipts and delivery receipts (ANNEXURE P-6).

3. Another writ CWP-21765-2022 dated 16.09.2022 was filed by co- owner of the said property Jaswinder Pal Singh Walia in which this Hon'ble High Court stayed all proceedings under SARFAESI also at DRT till the outcome of the case. Copy of stay order dated 15.11.2022 is enclosed (Annexure P-7).

4. An F.I.R. bearing no. 46 dated 02.04.2016 has also been registered against owners of the mortgaged property by one NRI Harbhajan Singh S/o Late Sh. Beant Singh which is under trial as case title 'State Versus Sanjay Dhingra & others' at District court, Ludhiana under case no. CHI/31537/2019. The NRI complainant has challenged the chain of title deeds of four properties from 99-A to 102-A situated at Sarabha Nagar, Ludhiana, Punjab, including the mortgaged property no. 100- A, Sarabha Nagar Ludhiana, as forged chain of title deeds executed since 1988, which is also case property in the court (ANNEXURE P-9).

5. The pendency of the court cases, as mentioned above, had been communicated from time to time to M/s ASREC (India) Ltd. through its representative and through various registered posts but the authorized officer of ASREC in his affidavit tendered before District Magistrate, Ludhiana in the application filed under Section 14 of the SARFAESI Act, concealed about the facts of litigations and stays granted in the same and on the basis of the said Representation order dated 27.10.2022 under section 14 of the SARFAESI Act has been passed.

6. Petitioner has filed complaint regarding the concealment of material facts before District Magistrate on 03.12.2022 (ANNEXURE P-10) and reminders have also been sent thereafter. However, no decision has been taken thereupon.

7. Taking into consideration that it is the prayer of the petitioner that complaint may be decided by the respondents in a time bound manner, the present petition is disposed of without commenting on merits of the present case by issuing a direction to the District

Magistrate, Ludhiana to decide the complaint filed by the petitioner within a **period of 04 months** and to take reasoned decision thereupon after granting of an opportunity of hearing to both the parties.

8. Disposed of accordingly.

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