

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

CWP-18670-2021(O&M)

Date of Decision:-20.09.2021

Kotak Mahindra Bank Ltd.

.....Petitioner.

Versus

State of Haryana & Ors.

.....Respondent.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present: Mr. Manish Jain, Advocate for Petitioner.

[The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.]

JASWANT SINGH, J.

सत्यमेव जयते

Respondent No.10-M/s Doon Valley Rice Limited, in the year 1998, availed various loan facilities from State Bank of India (SBI). The said loan facilities were secured by mortgaging landed properties mentioned in para 4 of the writ petition. It is alleged that respondent no.10 not only defaulted in repayment of loan but also breached and violated various terms and conditions of the said credit facilities due to which account of respondent no.10 was classified as NPA on 31.03.2002. Subsequently the outstanding loan was recalled by SBI, and assigned to the petitioner-bank vide Assignment Deed dated 23.03.2006. The recovery proceedings ensued between the parties before DRT-I, Chandigarh in the shape of claim and counter claim by both sides, and appeal against the orders passed in aforesaid claims/counter claims is allegedly pending before DRAT, Delhi.

After disposal of the original application by DRT and during the course of execution proceedings the Recovery Officer appointed Local Commissioner to execute the order for taking over physical possession of the mortgaged properties. Since revenue authorities failed to provide the possession, petitioner bank filed CWP No.29767 of 2018 before this Court which was disposed of vide order dated 06.02.2020 (P-3) with a direction to Tehsildar, Karnal to conduct demarcation as per photocopy of the revenue record. In compliance of the order P-3 Deputy Commissioner, Karnal appointed Tehsildar as Duty Magistrate for demarcation of the mortgaged land. Tehsildar, Karnal conducted demarcation on 14.02.2020 and 19.02.2020 vide joint report P-5, according to which M/s Doon Valley Trust-respondent No.9 is operating a College on the portion of mortgaged land. As per further averments made in the petition M/s Doon Valley Trust-respondent No.9 filed CWP No.5354 of 2021 before this Court assailing and seeking direction *inter alia* to stay the operation of the demarcation report dated 19.02.2020 submitted by Tehsildar, Karnal. The said petition is now pending for 24.11.2021.

It is the allegation of the petitioner-bank that respondent Nos.9 & 10 are not strangers to each other as late Sh. Naresh Aggarwal was one of the trustees of respondent No.9 as well as Director of respondent no.10 and now his son Mohit Aggarwal has stepped into his shoes. Respondent Nos.1 to 8 including State of Haryana are statutory bodies which granted permission to run five educational institutions in the premises of the respondent no.9. In the present petition the precise prayer of the petitioner is to direct the respondent Nos.1 to 8 to cancel the licence/permissions granted to five educational institutions operating from the premises of respondent no.9 as the same are existing on the mortgaged land without seeking any permission from the petitioner-Bank and in violation of the terms of mortgage. Further prayer is to issue writ of Mandamus directing respondent No.9 to provide its balance sheet to the petitioner to enable it to get attached proportionate revenue for usage of mortgaged land.

After hearing learned Counsel for the petitioner we are of the considered opinion that none of the prayers made in the petition can be granted in exercise of writ jurisdiction under Article 226/227 of the

Constitution, moreso when the demarcation report itself is under challenge before this Court. We also fail to comprehend as to how a demarcation could be conducted without their being partition of the mortgaged property as we find that some of the mortgaged property is in the joint holding of co-sharers.

Learned Counsel for the petitioner has not been able to deny that in case respondent nos.1 to 8 are directed to cancel the permissions granted by them to respondent no.9 to run 05 education institutions the students pursuing their academic career there would inevitably be affected without any fault. Further petitioner is not barred from approaching respondent Nos.1 to 8 for redressal of its grievances or seeking any other remedy in accordance with law.

Dismissed.

**(JASWANT SINGH)
JUDGE**

**(SANT PARKASH)
JUDGE**

September 20, 2021

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>