

LPA-1278-2025(O&M)

2025:PHHC:075032-DB



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

**LPA-1278-2025(O&M)
Date of Decision: 20.05.2025**

GAGAN CHOPRA

.....Appellant

Versus

UT OF CHANDIGARH AND OTHERS

.....Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present:- Mr. Chetan Mittal Senior Advocate, with
Mr. Kanwal Goyal, Advocate, and
Mr. Mayank Garg, Advocate, for the appellant.

Mr. Jaivir S. Chandail, Additional Standing Counsel and
Ms. Shubreet Kaur, Standing Counsel,
for respondents No.1 & 6- U.T. Chandigarh.

Mr. Akashdeep Singh, Special Public Prosecutor,
for respondent No.7.

Mr. Raman Sharma, Advocate, for the respondent No.3.

LAPITA BANERJI, J.

CM-3140-LPA-2025

1. This is an application for stay of auction proceedings advertised vide notice dated April 24, 2025 for auctioning of the sole residential property of the applicant and also for staying of the operation of the impugned orders dated March 19, 2025 and April 8, 2025 passed by a learned Single Judge of this Court and the order dated April 25, 2024 (Annexure P-1) passed by the State Consumer Disputes Redressal Commission, U.T., Chandigarh (hereinafter referred to as the, 'the State Commission').

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2. The brief facts which have given rise to the present *lis* are delineated hereinafter:-

- (i) Emerging Valley Private Limited-respondent No.5 was the judgement-debtor in various cases filed under the Consumer Protection Act, 1986.
- (ii) One Gurpreet Singh Sidhu, Managing Director-respondent No.4 of the judgment-debtor company was declared a proclaimed offender on December 18, 2019, for not satisfying the decretal amount.
- (iii) A table showing the various pending cases against the respondent No.5-company and the various dates on which respondent No.4 has been declared proclaimed offender is set out hereinafter: -

S.N.	Case No.	Case Title	Date of P.O. declared	Report of Tehsildar vide which properties attached
1	EA/474/2017 (MA/393/2022)	Jarnail Singh Vs. Emerging Valley Pvt. Ltd.	18/12/2019	• Vide Rapat No.193 dated 15.02.2019
2	EA/1/2018 (MA/395/2022)	Gurpreet Singh Vs. Emerging Valley Pvt. Ltd.	18/12/2019	• Vide Rapat Nos. 662, 663, 664 and 665 dated 31.01.2019
3	EA/143/2019 (MA/423/2022)	Samundari Devi Vs. M/s Emerging India Housing	13/11/2019	
4	EA/62/2019 (MA/427/2022)	Subodh Brahmi Vs. Siswan Paradise	07/08/2020	• Memo No.1030 dated 07.10.2019
5	EA/472/2017 (MA/425/2022)	Prof. Dr. Nalini Pathania Vs. Emerging Valley	09/01/2020	
6	EA/184/2018 (MA/429/2022)	Sukhdev Singh Vs. Emerging Valley	09/01/2020	• Letter No.629 dated 22.07.2019
7	EA/158/2018 (MA/400/2022)	Roshan Kumar Vs. Emerging India Housing	09/01/2020	

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- (iv) Various properties of respondent No.4, including House No.317, Sector 21-A, Chandigarh (for short, the property in question) were attached by the authorities.
- (v) After that the respondent No.4 was arrested on December 21, 2021.
- (vi) Vide order dated August 1, 2022, the State Commission came to the conclusion that since respondent No.4 was arrested under Section 27 of the Consumer Protection Act, 1986 (unamended), therefore, the attachment of the properties made to secure the presence of the respondent No.4 in Court stood automatically vacated.
- (vii) All the attached properties mentioned in Rapat Nos. 193, 662, 663, 664 and 665 dated 31.01.2019 etc. were ordered to be de-attached with immediate effect.
- (viii) Since the property in question had been mortgaged with State Bank of India (for short, SBI) prior to filing of the consumer cases, the said property was directed to be released on priority basis.
- (ix) The appellant bought the property from respondent No.4 vide purported sale deed dated September 30, 2022. The appellant claims to have satisfied the loan due and payable to SBI upon loan being sanctioned to him by the Punjab National Bank through sanction letter of the same date i.e. September 30, 2022 and also by selling his personal properties.
- (x) The said sanction letter was issued pursuant to submission of a due diligence report dated 23.09.2022 by an Advocate.

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- (xi) In the said due diligence report, it has been clearly stated that the clearance of loan to the SBI, release of Original Title Deeds along with the Attachment Release letter from Assistant Collector, Chandigarh; attachment release letter from SRO, Chandigarh; certified copy of the de-attachment orders from the State Consumer Disputes Redressal Commission, U.T., Chandigarh and borrower of the bank would show that respondent No.4 had clear, valid, legal, mortgageable title over the property in question.
- (xii) The State Commission vide its order dated April 25, 2024 clearly came to the finding that the sale deed No.4415 dated September 30, 2022 executed between respondent No.4 and the appellant had come into existence, much after the passing of the decrees, which were sought to be executed through the execution application filed by the decree holder-respondent No.3 against the respondents No.4 and No.5.
- (xiii) The appellant asserted before the State Commission that a consideration amount of Rs.8.17 crores was paid by him to SBI in part satisfaction of the loan taken by the respondents No.4 and 5 and that further amounts were also paid by him to SBI to satisfy the entire debt, along with interest. Therefore, the property in question should not be attached in execution applications.
- (xiv) The Commission held that since the sale deed was brought into existence during the pendency of the execution applications and much after the decree, in favour of respondent No.3 had been passed and that the appellant had ample knowledge of the execution proceedings as he

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had filed applications for impleading him in those proceedings, the sale deed dated 30.09.2022, executed between the appellant and respondent No.4 was hit by the doctrine of “*lis pendens*”. Resultantly, the State Commission dismissed the objections filed by the appellant.

(xv) The Commission also held that the sale deed dated September 30, 2022 had been executed only with the intent to delay and defeat the legitimate claims of the decree holder/creditor-respondent No.3 and that the appellant had not acted in good faith in entering the sham transaction.

3. The learned Single Judge, vide order dated March 19, 2025 *prima facie* was of the opinion that a fraudulent transfer has been effected by the judgment debtor-respondent No.4 in favour of the appellant. After quoting the observations of the State Commission, the Central Bureau of Investigation through its Zonal Director, at Chandigarh was impleaded as respondent No.7 as learned Single Judge opined that a thorough probe was required.

4. Vide impugned order dated April 8, 2025 the learned Single Judge refused to stay the auction proceedings against the residential house of the appellant. It held that since seven execution petitions were pending against the respondent No.5-Company and since the appellant had knowledge of the said proceedings he could not be held to be a *bona fide* purchaser.

5. Furthermore, it was recorded in the impugned order that before the property was de-attached vide by the order of the State Commission dated August 01, 2022, several payments had been made by the appellant to respondent No.5

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for purchase of the property. The learned Single Judge held that it was required to be probed whether it was the judgment-debtors themselves who were putting up a front through the appellant creating an eyewash of the purported interest being created in favour of the appellant to nullify the legitimate dues of the decree holder-respondent No.3.

6. The learned Single Judge was further of the view that since the judgment debtors had entered into the settlement with the respondent No.3-decree holder on February 18, 2022 but had deliberately failed to honour the said commitment it was possible that by putting up the appellant as a front, the judgment-debtor-appellant was seeking to save his property.

7. Learned Senior Counsel appearing for the appellant submits that the petitioner is a *bona fide* purchaser who has purchased the property in question by selling four of his other properties and obtaining a bank loan and the property in question was bought by the appellant only after due diligence was conducted by the PNB from which bank the loan was sanctioned. The learned Single Judge erred in not appreciating that the appellant had purchased the property in question only after its de-attachment by the State Commission and that the appellant has satisfied the entire loan payable to SBI.

8. Issue notice.

9. Mr. Chandail, learned Additional Standing Counsel for U.T. Chandigarh accepts notice on behalf of respondents No.1 and 6. Mr. Sharma, learned counsel accepts notice on behalf of respondents No.3. Mr. Akashdeep, learned counsel accepts notice on behalf of respondent No.7. No notice is

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required to be issued to Chandigarh State Consumer Disputes Redressal Commission-respondent No.2. Respondents No.4 and 5 are the judgment-debtors have already transferred their right, title and interest in the property in question to the appellant, so no notice is required to be served upon them, at this stage. Mr. Chandail, learned Additional Standing Counsel for U.T. Chandigarh submits that there is no infirmity in the impugned order passed by the State Commission on April 25, 2024 as the property in question was transferred during the pendency of the execution proceedings filed by respondent No.3 against respondents No.4 and 5. He has also produced documents in Court to buttress his argument, that the property in question stood de-attached at the time of transfer.

10. Mr. Sharma appearing for the decree-holder-respondent No.3 vehemently opposes the stay application. He submits that the appellant is acting in collusion and conspiracy with the judgment-debtors to deprive the decree-holder of the fruits of the decree. The appellant was well aware of the fact that the property in question was attached by the orders passed by the State Commission. Despite such knowledge, the appellant started making payments for purchase of the property in question, prior to the order of de-attachment. Therefore, the appellant has not approached the Court with clean hands. The *mala fide* intent of the appellant is apparent from his conduct and does not warrant interim protection by way of stay of the auction proceedings.

11. Mr. Sharma, further relies on the judgment dated July 07, 2022 of the Hon'ble Supreme Court of India in Civil Appeal No.4649 of 2022 (arising out of SLP (C) No.12833 of 2014) **Sriram Housing Finance and Investment India**

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Ltd. V. Omesh Mishra Memorial Charitable Trust to contend that the appellant, admittedly being purchaser of the property in question could not raise objection under Order 21 Rule 97 or Rule 99 of the Code of Civil Procedure, 1908 since admittedly the property was purchased during the pendency of the suit. Rule 102 of Order 21 of CPC clarifies that Rules 98 and 100 shall not apply to a transferee i.e. the person to whom property is transferred, by the judgment-debtor after the institution of the suit in which the decree is sought to be executed. Therefore, no objection can be raised by the appellant to the execution proceedings.

12. After having heard the learned counsel for the parties and perusing the material on record, this Court is of the opinion that on the facts of the case, a thorough investigation is required to be done as to whether the transfer of the property in question, by the judgment debtor during the pendency of execution proceedings by the creditors was fraudulent and for *mala fide* reasons. However, it is of the view that in the instant case investigation by the CBI may not be warranted and that the Chandigarh Police would be well equipped to handle such investigation. Accordingly, it is directed that a three member Special Investigation Team (SIT) headed by a Superintendent of Police (SP) should conduct the investigation regarding fraudulent transactions between the parties. The investigation should preferably be concluded and the said report be submitted in a sealed cover before the learned Single Judge, within two months from the date of communication of this order.

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13. Having observed as above, we are further of the opinion that in order not to create any further third party interest in the property in question till such time the investigation as above is not completed, auction of the property in question is not warranted and that the learned Single Judge, after the receipt of the final investigation report and in terms thereof, would be free to decide the future course of action. However, the appellant without express permission from the Court shall not sell, alienate, create any encumbrance or third party rights over the property in question.

14. We are also of the considered view that in the event the appellant is ready and willing to pay off the entire decretal amount, along with interest to all the decree-holders, an application for issuance of appropriate directions may be made by the appellant before the learned Single Judge.

15. With the aforesaid directions **CM-3140-LPA-2025** is **disposed of**.

Main case:

1. The Letters Patent Appeal is **disposed of** with the afore noted directions given in stay application being CM-3140-LPA-2025. It is reiterated that the learned Single Judge will be free to decide the present writ petition being CWP No.6677 of 2025 and pass appropriate directions therein after perusing the investigation report submitted before him, in a sealed cover.

2. Furthermore, there is no dispute to the ratio postulated in **Sriram Housing** (supra) but since the appellant is still in possession of the property in question, the said judgment is not applicable to the facts of the present case.

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3. In the light of the discussion hereinabove, the present appeal is **disposed of** by modifying the orders passed by the learned Single Judge in the above terms. Since, the civil writ petition is still pending before the learned Single Judge, it is clarified that this Court has expressed no opinion on merits and leaves it open to the Single Bench to decide the case on merits.

(DEEPAK SIBAL)
JUDGE

(LAPITA BANERJI)
JUDGE

20.05.2025

Jyoti Thakur

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No