IN THE COURT OF **PARDEEP SINGH,** CIVIL JUDGE (JR. DIVISION), (UID No. HR-0704), SONEPAT.

Application for grant of ad interim injunction

CS-375-2026 Suresh etc. vs. Krishan etc.

Present: Sh. D.S. Malik, Advocate for plaintiff.
Defendants no. 1 & 2 in person.
Sh. S.S. Miglani, Advocate for defendant no. 3.
Ms. Anita, Ld. GP for defendants no. 4 to 6.

ORDER:-

The present order shall dispose of the application under Order XXXIX Rules 1 & 2 CPC moved on behalf of the plaintiffs seeking grant of ad-interim injunction restraining the defendants from dispossessing them from the suit property.

2. The brief and relevant facts, as set out in the plaint, are that the plaintiffs claim ownership and possession over a specific portion of house bearing No. 418/31 situated at Gohana Bye-pass Road, Sonepat, on the basis of an alleged family settlement effected during the lifetime of late Sh. Jiwan Singh. It is their case that the said property was originally purchased by late Jiwan Singh in the year 1987 and thereafter partitioned, and the portion in dispute fell to their share. The plaintiffs have further pleaded that they have been in continuous possession of the said portion and have raised construction and incurred expenses over the same.

3. It is further the case of the plaintiffs that defendant Nos.1 and 2, in connivance with defendant No.3–Punjab National Bank, without their consent and knowledge, created a mortgage over the suit property by committing fraud and forgery and obtained loan facilities. It is alleged that the plaintiffs or their predecessor never executed any valid mortgage documents in favour of the bank qua their share. It is further pleaded that the plaintiffs came to know about the said loan transaction and recovery proceedings only recently when a notice dated 27.02.2026 was affixed on the property indicating that possession is to be taken by the authorities on 17.03.2026. On these averments, the present suit along with the application for interim injunction has been filed.

4. By way of the present application, the plaintiffs have prayed that defendant Nos.3 to 6 be restrained from taking physical possession of the suit property during the pendency of the suit, alleging that they have a prima facie case in their favour, the balance of convenience lies with them and that they would suffer irreparable loss in case the injunction is not granted.

5. Per contra, the application has been strongly opposed by defendant No.3–bank, which has also placed on record detailed documents pertaining to the loan transaction and recovery proceedings. Defendant No.3 has also filed an application under Order VII Rule 11 CPC for rejection of the plaint.

6. Arguments advanced by both the parties heard. Record perused.

7. It is a settled principle of law that while considering an application for grant of temporary or ad-interim injunction under Order XXXIX Rules 1 & 2 CPC, the Court is required to examine three essential ingredients, namely (i) whether the applicant has been able to establish a prima facie case, (ii) whether the balance of convenience lies in favour of the applicant, and (iii) whether the applicant would suffer irreparable loss and injury in case the relief is not granted. It is further well settled that the relief of injunction is an equitable and discretionary relief, and a party seeking such relief must approach the Court with clean hands and must disclose all material facts. Suppression or concealment of material facts disentitles such party from grant of equitable relief.

8. It has been specifically pleaded and supported by record that the loan account in question was declared Non-Performing Asset (NPA) on 30.09.2021. Even prior thereto, a recall notice dated 01.06.2021 was issued by the bank to the borrowers calling upon them to clear the entire outstanding dues, failing which the bank was constrained to initiate appropriate legal proceedings for recovery of its dues.

9. It is further borne out from the record that thereafter the bank invoked the provisions of the SARFAESI Act, 2002and issued demand notice under Section 13(2) on 12.10.2021, calling upon the borrowers to discharge their liability within the statutory period. Upon failure to comply with the said notice, the bank proceeded further under

Section 13(4) of the Act and took symbolic possession of the secured asset on 24.12.2021. The possession notice was affixed on the property on the same date and was also sent through registered post on 29.12.2021 to the concerned parties.

10. In addition thereto, the possession notice was duly published in widely circulated newspapers, namely “Pioneer” (English) and “Business Bhaskar” (Hindi) dated 30.12.2021. Thereafter, the Authorised Officer of the bank issued proclamation of sale notice dated 23.05.2022 for conducting public auction on 29.06.2022. It is further reflected that subsequent notices and steps were undertaken from time to time in continuation of the recovery proceedings initiated by the bank.

11. From the aforesaid sequence of events, it prima facie appears that the bank has followed due procedure as contemplated under the SARFAESI Act and has taken all necessary statutory steps for enforcement of its security interest.

12. Another important aspect which goes to the root of the matter is the conduct of the plaintiffs. The plaintiffs have categorically pleaded in the plaint that they had no knowledge of the loan transaction, notices or recovery proceedings till recently. However, the material placed on record by the bank prima facie shows that notices were duly issued, affixed on the property and also published in newspapers.

13. More importantly, it has been brought on record that proceedings in respect of the same loan account and auction process are already pending before the Debt Recovery Tribunal, Chandigarh and further that the matter had also been carried before the Hon’ble High Court, wherein the present plaintiffs alongwith other borrowers/defendants had jointly challenged the auction proceedings.

14. This fact assumes great significance, as it clearly demonstrates that the plaintiffs were well aware of the entire proceedings initiated by the bank much prior to the filing of the present suit. Despite such knowledge, the plaintiffs have chosen not to disclose these material facts in the plaint and have instead taken a plea of complete ignorance.

15. The suppression of such material facts, particularly with regard to proceedings before the Debt Recovery Tribunal as well as challenge before the Hon'ble High Court, amounts to deliberate concealment and misrepresentation before the Court. It is a settled principle of law that a party seeking equitable relief must approach the Court with clean hands and must disclose all material facts. Any suppression or concealment disentitles such party from grant of discretionary relief.

16. At this stage, it is also to be noted that the allegations of fraud as raised by the plaintiffs against the defendants are matters which require detailed evidence and adjudication and cannot be conclusively determined at the stage of consideration of interim relief. Mere bald allegations of fraud, without prima facie substantiation, cannot be made a ground to restrain statutory proceedings undertaken by the bank.

17. Further, the bar contained under Section 34 of the SARFAESI Act, though to be finally adjudicated at a later stage, also weighs with this Court at the present stage, particularly in view of the fact that the bank has already taken measures under the Act and proceedings are pending before the competent forum.

18. In these circumstances, this Court is of the considered opinion that the plaintiffs have failed to establish a prima facie case in their favour. The balance of convenience also does not lie in their favour, as the bank has proceeded in accordance with statutory provisions and any interference at this stage would obstruct the recovery mechanism provided under law. So far as the plea of irreparable loss is concerned, the same is also not made out in favour of the plaintiffs at this stage, especially in view of their conduct and the availability of appropriate remedies before the competent forums.

19. In view of the detailed discussion hereinabove, this Court finds that no ground is made out for grant of ad-interim injunction. Accordingly, the application under Order XXXIX Rules 1 & 2 CPC is hereby dismissed.

20. It is clarified that nothing observed herein shall be construed as an expression on the merits of the case, and the same shall be adjudicated independently

after evidence. The application under Order VII Rule 11 CPC filed by defendant No.3 shall be decided on its own merits after hearing both sides.

(Pardeep Singh)
Civil Judge (Jr. Divn),
(UID No. HR-0704)
Sonepat, 17.03.2026

Notes All the pages of this order have been dictated, checked and signed by me.

(Pardeep Singh)
Civil Judge (Jr. Divn),
(UID No. HR-0704)
Sonepat, 17.03.2026

Meena, Stenographer-II

Present: Sh. D.S. Malik, Sh. J.P. Chhikara & Sh. R.M.S. Kundu, Advocates for plaintiff.
Defendants no. 1 & 2 in person.
Sh. S.S. Miglani, Advocate for defendant no. 3.
Ms. Anita, Ld. GP for defendants no. 4 to 6.

Defendants no. 1 & 2 appeared in person. Power of attorney on behalf of defendant no. 3 filed. Ms. Anita, Ld. GP appeared on behalf of defendants no. 4 to 6. Service completed. At this stage, an application u/o 7 Rule 11 CPC for rejection of plaint filed by defendant no.3. Copy supplied. Now to come up on 16.04.2026 for filing of reply to the said application as well as for filing of written statement on behalf of all defendants. Power of attorney on behalf of defendants no. 1 and 2 be also filed on the said date.

(Pardeep Singh)
Civil Judge (Jr. Divn),
(UID No. HR-0704)
Sonepat, 17.03.2026

Meena, Stenographer-II