

Item No. D-19

**State of Himachal Pradesh & others
Vs. Darshan Singh & others**

LPA No. 404 of 2024

30.06.2025 Present: Mr. Pranay Pratap Singh, Additional Advocate General, for the appellants-State.

Mr. Shriyek Sharda, Advocate for respondent No. 1.

Mr. Arvind Sharma, Advocate, for respondent No. 2.

A perusal of the record would go on to show that the Sale Certificate dated 14.05.2018 (Annexure P-1) was issued in favour of the writ petitioner, on account of having deposited the amount of Rs. 1,04,50,000/-, as sale price for the land measuring 13 kanals 3 marlas, which was put to auction by the Bank.

2. The dispute as such was regarding the dues of the Electricity Department and the Excise Department, for which entries were made on 16.01.2014 and 16.05.2014 in the revenue record. The State did not delete the entries of the revenue record and the Bank did not inform the Revenue Department when the auction was done, as is evident from communication/orders dated 14.08.2019 and 16.08.2019.

3. It has been brought to our notice that the learned Single Judge had placed reliance upon the judgment dated 19.05.2021, passed by this Court in CWP No. 1638 of 2017, titled as ***Punjab National Bank and another Vs. State of Himachal Pradesh & others***, wherein he had made a passing reference to Section 26E of the SARFAESI Act, 2002 and the fact that the said order had been upheld in LPA No. 156 of 2021, ***State of H.P. & others Vs. State Bank of India & another and other connected matters***, decided on 12.04.2023.

4. It is submitted that at the subsequent point of time, it has now been clarified by the three Judges' Bench of the Apex Court in ***Civil Appeal No. 6751 of 2023***, titled ***Punjab & Sind Bank Vs. State of Punjab and another***, decided on 7.12.2023, reported in ***2023 SCC OnLine SC 1894***, that provisions of Section 26E of the SARFAESI Act would come into effect from 24.01.2020 and if the State's action commences earlier, it would not be applicable as the provisions were introduced with prospective effect.

5. Faced with this situation, Counsel for the Bank shall clarify as to when the advertisement regarding the auction proceedings was issued, in pursuance to which the writ petitioner had purchased the property.

6. *Prima-facie*, if it has been not mentioned in the advertisement clearly whether the property had any charge or not, then the auction purchaser as such cannot be faulted with, in any manner and he has been forced to litigate on account of the mistake committed by the respondent-Bank.

List on **29.07.2025**.

(G.S. Sandhawalia)
Chief Justice.

(Ranjan Sharma)
Judge

June 30, 2025
(hemlata)