

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.444 of 2015 (O&M)
DATE OF DECISION: 13.01.2015

M/s PKF Finance Ltd. and others

....Petitioners

versus

The Authorized Officer, UCO Bank and another

.....Respondents

CORAM:- HON'BLE MR.JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Rohit Sud, Advocate for the petitioners

..

S.J. VAZIFDAR, ACTING CHIEF JUSTICE (Oral) :

The petitioners have challenged the proposed auction of the second respondent-M/s IAA Hospital Pvt. Ltd. at the instance of the first respondent-Authorized Officer, UCO Bank. The proposed auction is under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Act, 2002 (SARFAESI Act).

2. The auction is proposed to be held tomorrow. The petitioners claim to have a first charge in respect of the plant and machinery in the premises of the second respondent-Hospital. They contend that the respondent No.1 has a charge in respect of the land and building and not in respect of plant and machinery. According to them, the first respondent does not even have a pari

passu charge in respect of the plant and machinery in the second respondent's premises.

3. The writ petition is, therefore, disposed of by the following order:

4. The petitioners have an alternate remedy under Section 17 of the SARFAESI Act which they ought to avail of in the first instance. The apprehension is that the auction is to be held tomorrow. The petitioners can always seek interim relief in respect of the proposed auction. They can also be present at the time of auction and raise their objection(s), if any. Further, even assuming that the property is auctioned, the petitioners can always claim the sale proceeds in respect of the plant and machinery on the basis that they are the first and the only charge holders in respect thereof. Even that relief can also be claimed in the proceedings under Section 17 of the SARFAESI Act.

5. The writ petition is accordingly disposed of with liberty to the petitioners to avail of the alternate remedy.

Needless to add that the auction and the appropriation of the sale proceeds of the moveable property, if any, would be subject to the orders in the proceedings under Section 17 of the SARFAESI Act which the petitioners may adopt.

**(S. J. VAZIFDAR)
ACTING CHIEF JUSTICE**

13.01.2015
parkash*

**(AUGUSTINE GEORGE MASIH)
JUDGE**