

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-15011-2016

Date of decision: 28.07.2016

M/s Om Dairy Farm

..... Petitioner

Versus

Bank of India and another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

**PRESENT: Mr. Karan Singh, Advocate
for the petitioner.**

AJAY KUMAR MITTAL, J. (ORAL)

1. The petitioner has approached this Court under Articles 226/227 of the Constitution of India, *inter alia* seeking quashing of notice dated 16.04.2015 (Anexure P-1) issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SARFAESI Act') whereby respondent No. 2 demanded the balance amount of ₹ 46,55,647/- and other charges within a period of 60 days from the petitioner. The challenge is also to the possession notice dated 25.03.2016 (Annexure P-2) issued under Section 13(4) of the SARFAESI Act whereby the respondent-Bank had taken the symbolic possession of secured assets for recovery of due amount.

2. Section 17 of the SARFAESI Act, provides right to appeal

whereunder any person (including borrower), aggrieved by any of the measures referred to in sub-section (4) of section 13 taken by the secured creditor or his authorized officer under this Chapter, may make an application alongwith such fee, as may be prescribed to the Debts Recovery Tribunal having jurisdiction in the matter within forty-five days from the date on which such measure had been taken.

3. In such a situation, we refrain ourselves to entertain the petition and relegate the petitioner to avail the alternative remedy available to it, in accordance with law.

4. Dismissed.

**(AJAY KUMAR MITTAL)
JUDGE**

July 28, 2016
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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No