

118 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP No.29614 of 2018  
Decided on : 22.11.2018

Praveen Sharma & anr.

..... Petitioners

Versus

Kotak Mahindra Bank Ltd. & ors.

..... Respondents

**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL  
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. Rajiv Kataria, Advocate  
for the petitioners.

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**Ajay Kumar Mittal, J.**

Challenge in this writ petition filed under Articles 226/227 of the Constitution of India for issuance of a writ of Certiorari for setting aside the notice dated 22.06.2018 (Annexure P-14) issued under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'Act') and possession notice dated 09.10.2018 (Annexure P-17) being illegal.

2. The petitioners have not approached the respondent-Bank for the relief as claimed in the present writ petition. Further, admittedly, an application under Section 17(1) of the Act is maintainable assailing the notice issued under Section 13(4) of the Act. Therefore, the petitioners have an alternative remedy available to them under the Act.

3. The Apex Court in “***United Bank of India Vs. Satyawati Tondon and others (2010) 8 SCC 110***”, held as under :

*“It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and SARFAESI Act and exercise*

*jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues.”*

4. Faced with this situation, learned counsel for the petitioners submitted that he may be allowed to withdraw the present writ petition with liberty to the petitioners either to approach the respondent-Bank or avail any other alternative remedies as are available to them, in accordance with law.

5. Dismissed as withdrawn. It shall, however, be open to the petitioners to take recourse to the remedies as may be available to them, in accordance with law.

**(AJAY KUMAR MITTAL)**  
**JUDGE**

**(MANJARI NEHRU KAUL)**  
**JUDGE**

22.11.2018

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Whether speaking/reasoned:  
Whether reportable :

Yes/No  
Yes/No