

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-1857-2019

Date of Decision: 23.1.2019

Ishwar Dass Garg

...Petitioner

Versus

District Magistrate, Ludhiana and another

...Respondents

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

PRESENT: Mr. Sandeep Singh, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ of certiorari for quashing the order dated 12.1.2018 (Annexure P-8).

2. The petitioner availed the credit facilities from respondent No.2 by executing various documents. Since, the petitioner failed to repay the loan amount, his account was declared as NPA on 27.2.2015. A notice dated 31.3.2015 (Annexure P-1) under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short "the SARFAESI Act") was issued to the petitioner. The petitioner filed the objection dated 27.5.2015 (Annexure P-2) to the said notice. Respondent No.2 vide letter dated 4.6.2015 (Annexure P-3) disposed of the said objections and directed the petitioner to pay the outstanding liability. Thereafter, the petitioner filed a caveat application

dated 3.6.2015 (Annexure P-4) before respondent No.1. Respondent No.2 filed an application (Annexure P-5) under Section 14 of the SARFAESI Act before respondent No.1. Respondent No.1 vide order dated 12.4.2016 (Annexure P-6) dismissed the application for non-prosecution filed by respondent No.2. The petitioner filed an application dated 7.9.2016 (Annexure P-7) before respondent No.1 for modification/correction of the order dated 12.4.2016 (Annexure P-6). Respondent No.1 vide order dated 3.10.2017 dismissed the said application filed under Section 14 of the SARFAESI Act. Thereafter, respondent No.2 filed CWP-19554-2018 on 2.8.2018 (Annexure P-9) impleading the petitioner as one of the respondents. Respondent No.2 again filed an application under Section 14 of the SARFAESI Act, upon which communication dated 12.1.2018 (Annexure P-8) was issued to the Commissioner of Police, Ludhiana for providing police help for taking possession of the mortgaged property of the petitioner. The petitioner moved an application dated 20.12.2018 (Annexure P-9) under the Right to Information Act, 2005 for providing copy of the proceedings and the orders passed under Section 14 of the SARFAESI Act, but to no effect. The petitioner also moved an application (Annexure P-11) for inspection of the file in the office of respondent No.1, but no response was received. Hence, the present writ petition.

3. We have heard learned counsel for the petitioner and perused the paper-book.

4. It is not disputed that the petitioner has statutory remedy against the order dated 12.1.2018 (Annexure P-8) passed by respondent No.1 before the Debts Recovery Tribunal (hereinafter referred to as “the Tribunal”). Further, the Apex Court in **United Bank of India v. Satyawati**

Tondon and others (2010) 8 SCC 110 had 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.”

5. In view of the above, we are not inclined to entertain the writ petition and, therefore, dismiss the present writ petition by relegating the petitioner to approach the Tribunal or avail any other alternative remedies as are available to him, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

January 23, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No