**IN THE HIGH COURT OF PUNJAB AND HARYANA**
**AT CHANDIGARH**

**CM-1341-CWP-2019 in/and**
**CWP-2039-2019**
**Decided on : 20.02.2019**

M/s Baba Mungipa Hi-Tech Layer Farm and others

. . . Petitioner(s)

Versus

Bank of India and others

. . . Respondent(s)

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

PRESENT: Mr. Bhal Singh Malik, Advocate
for the applicant-petitioner(s).

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**AJAY KUMAR MITTAL, J. (Oral)**

**CM-1341-CWP-2019**

In terms of order dated 24th January, 2019, Loan Agreement (Annexure P-9) filed along with the application is taken on record, subject to all just exceptions. Office to tag the same at the appropriate place.

CM stands disposed of.

**CWP-2039-2019**

The petitioners have approached this Court under Articles 226/227 of the Constitution of India, *inter alia* seeking quashing of notice dated 03.07.2017 (Annexure P-5) issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (in short 'the SARFAESI Act, 2002') as well as the application dated 09.10.2018 (Annexure P-6) under Section 14 of the SARFAESI Act, 2002, filed by the respondent-Bank and also the order dated 11.10.2018 (Annexure P-7), whereby, the District Magistrate, Bhiwani-respondent No.7, provided the police assistance to the respondent-Bank for taking possession of the secured assets. Apart from above, petitioners have also sought quashing of auction notice dated 27.12.2018 (Annexure P-8).

2. It was not disputed by learned counsel for the petitioners that against the notice issued under Section 13(2) of the SARFAESI Act, 2002, no objection was filed under Section 13(3A) thereof. The petitioners had not even approached the respondent-Bank for clearing the outstanding dues at the first instance. Further, an application under Section 17(1) of the SARFAESI Act, 2002 against the order of respondent No.3 – District Magistrate, Bhiwani, passed under Section 14 thereof, is maintainable before the Debts Recovery Tribunal having jurisdiction in the matter.

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. In view of the above, we are not inclined to entertain the present writ petition and dispose of the same by relegating the petitioners either to approach the respondent-Bank/Debts Recovery Tribunal or avail any other alternative remedies as are available to them, in accordance with law.

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

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

**February 20, 2019**
*J.Ram*

*Whether speaking/reasoned: Yes/No*
*Whether Reportable: Yes/No*