

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

**CWP No. 15034 of 2018
Decided on : 10.01.2019**

M/s Shri Ganesh Jewellers and another

. . . Petitioner(s)

Versus

Union Bank of India and another

. . . Respondent(s)

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

PRESENT: Ms. Mandeep Kaur, Advocate
for the petitioner(s).

Mr. Pardeep Sharma, Advocate for
Mr. Gaurav Goel, Advocate
for the respondents.

AJAY KUMAR MITTAL, J. (Oral)

The petitioners by way of present petition filed under Articles 226/227 of the Constitution of India, seek quashing of order dated 18.01.2018 (Annexure P-2), passed by respondent No.2, whereby, notice of possession has been issued to the petitioners. A further prayer has been made for directing the respondents to allow the petitioners to sell their hypothecated property at their own level, so that they can fetch the appropriate amount against the said property.

2. It was not disputed that the petitioners have not approached the respondent-Bank for clearing the outstanding dues at the first instance. Moreover, an application under Section 17(1) of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (in short 'the SARFAESI Act, 2002') against the order dated 18.01.2018 (Annexure P-2), is also 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 at this stage and therefore, dispose of the present writ petition 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

January 10, 2019

J.Ram

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