

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

CWP No. 2096 of 2021
Date of decision: 29.01.2021

Ram Mehar and another

..... Petitioner (s)

V/s.

The District Magistrate, Panipat, and others

..... Respondent (s)

**CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr. Vinod Khunger, Advocate, for the petitioners.

Sanjay Kumar, J. (Oral)

The petitioners assail the possession notice dated Nil issued by the Phoenix ARC Private Limited, the second respondent, under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act of 2002'). It is their case that they were not served a demand notice under Section 13(2) of the Act of 2002 by Bajaj Finance Limited, the third respondent, from whom they had availed loan facilities. They contend that the second respondent, having stepped into the shoes of the third respondent, straightway issued the impugned possession notice.

However, perusal of the impugned possession notice shows that reference was made therein to demand notice dated 06.09.2019 issued to the petitioners.

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Mr. Vinod Khunger, learned counsel for the petitioners, would strenuously assert that the said demand notice was never received by them.

However, such a disputed question of fact cannot be resolved by the writ Court in exercise of power under Article 226 of the Constitution. An efficacious alternative remedy is provided to the petitioners under the statute by way of an application before the jurisdictional Debts Recovery Tribunal under Section 17 of the Act of 2002 (See '**Jagdish Singh V/s. Heeralal and others**', [(2014) 1 SCC 479] and '**State Bank of Travancore V/s. Mathew KC**' [(2018) 3 SCC 85]). It is for the petitioners to avail the said remedy and prove their case.

The writ petition is accordingly dismissed leaving it open to the petitioners to take recourse to the statutory remedy available to them in accordance with the due procedure laid down by law.

No order as to costs.

(SANJAY KUMAR)
JUDGE

(ARCHANA PURI)
JUDGE

29.01.2021

rakesh

whether speaking	:	Yes/no
whether reportable	:	Yes/no