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

CWP NO.3352-2021
Date of Decision: 26.02.2021

RAJESH SHARMA ....PETITIONER..

Versus

RELIANCE ASSET RECONSTRUCTION CO. LTD.
THR. ITS CHIEF FINANCIAL OFFICER
....RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present : Ms. Jasneet Mehra Advocate,
for the petitioner.

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SANT PARKASH , J.

(The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court)

The instant petition has been preferred under Article 226/227 of Constitution of India for issuance of a writ in the nature of certiorari for quashing the impugned auction notice dated 28.12.2020 (Annexure P-2) under Rule 8(1) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act') and for quashing impugned demand notice dated 13.09.2019 (P-1) issued under Section 13(2) of the SARFAESI Act. Further prayer has also been made for issuance of a writ in the nature of mandamus directing the respondents to not to take possession of the only residential house of the petitioner forcibly and illegally.

Brief facts of the case are that the petitioner obtained a credit facility of ₹7.00 lacs from G.E. Countrywide Ltd. in October 2007 and as per the loan instructions, the petitioner had to pay the said loan amount in 120 equal installments of ₹10,200/- per month and he was regularly paying the same. In between, the aforesaid company was took over by Megma Fincorp Ltd., the petitioner was regularly paying the installments and till January 2016, total 90 installments have been paid by the petitioner out of total 120 installments. Later on, the petitioner came to know that financial institution was still showing an outstanding amount of more than ₹4 lacs and raised illegal demands from the petitioner, due to which, a dispute arose between the petitioner and Megma Fincorp. Ltd. On 13.09.2020, the petitioner came to know that Megma Fincorp. Ltd. has also been merged into Reliance Asset Reconstruction and the respondent financial institution declared the loan account of the petitioner as Non-Performing Asset (NPA) on 31.01.2017. On 13.09.2019, the respondent issued a demand notice under Section 13(2) of the SARFAESI Act, demanding ₹7,29,162.97, whereas, the petitioner has already paid most of the installments and only 30 more installments were due. Aggrieved against, the petitioner approached the respondent requesting them to settle his account and also showed his inability to pay such huge amount in one go. However, the respondent issued possession notice dated 28.12.2020, under Rule 8 of SARFAESI Act, for taking possession of the only residential house of the petitioner i.e. House No.262/17, Aabadi Barnala Road, Baldev Nagar, Ambala City, where the petitioner is residing with his family. Hence, the present writ petition.

It is a conceded position of law that the petitioner has efficacious remedy available before the appropriate authority i.e. Debt Recovery Tribunal. The law in this regard is very clear that when appropriate forum is provided under the SARFAESI Act, this Court stands injuncted from interfering with any matter arising out of the proceedings under the SARFAESI Act. The Hon'ble Supreme Court has already rendered judgment in this regard in case of "**United Bank of India vs. Satyawati Tandon and others"**, reported as **(2010) 8 SCC 110,** which has further been reiterated by Hon'ble the Supreme Court in case **Authorised Officer, State Bank of Travancore and another vs. Mathew K.C.**, reported as **2018(2) R.C.R. (Civil) 1**.

At this stage, learned counsel for the petitioner prays for withdrawal of the instant petition with liberty to seek remedy before the DRT in accordance with law.

Dismissed as withdrawn with the aforesaid liberty.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

26.02.2021
sonika

whether speaking/reasoned: Yes/No
whether reportable: Yes/No