

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

**CWP-23401-2021 (O & M)
Date of decision: 18.11.2021**

M/s Hari Kewal Pvt. Ltd.

..... Petitioner

V/s

Punjab and Sind Bank

...Respondent

(Through Video Conferencing)

**CORAM: HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Vivek Aggarwal, Advocate, for the petitioner.

Mr. Gaurav Goel, Advocate, for the respondent-Bank.

M.S. RAMACHANDRA RAO, J. (Oral)

The present writ petition has been filed seeking quashing of sale notice dt. 16.10.2021 (Annexure P-6) issued by the respondent-Bank being in contravention to Section 31(i) of the Securitization and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act') which prohibits the respondent-Bank to proceed against the petitioner under the provisions of the said Act.

Mr. Gaurav Goel, learned counsel appearing for respondent-Bank has placed before this court a copy of the order dated 19.12.2014 in SA No.197 of 2010 passed by the Debts Recovery Tribunal-II, Chandigarh in which the writ petitioners herein had questioned proceedings initiated under the Act and there is a specific finding recorded negating the

plea that the property being proceeded against by the Bank was an agricultural land. This order of the DRT-II dt. 19.12.2014 in SA-197-2010 being order in operation, it would be *rej judicata* and bind the petitioner even if it is erroneous, and it would not be open to the petitioner to reopen the said issue, particularly, when the said order of the DRT-II was challenged before the Debts Recovery Appellate Tribunal, Delhi and the said appeal was dismissed on 18.09.2015 on account of non-compliance with the mandatory pre-depositing requirement, and was also confirmed in the decision dated 22.05.2017 rendered in CWP-23767-2015.

It is also the contention of learned counsel for the petitioner that SLP No.16627-2021 is pending before Hon'ble the Supreme Court. But in that case, the writ petitioner had challenged an order of the High Court permitting the respondent-Bank to retain the amount deposited towards One Time Settlement (OTS) proposal which was not accepted by the bank. We are of the opinion that in the aforesaid SLP, the issue is entirely different and the pendency of the SLP cannot come to the aid of the petitioner in the present writ petition.

Therefore, we do not find any merit in the present writ petition and the same is hereby dismissed *in limine*.

(M.S. RAMACHANDRA RAO)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

November 18, 2021
sukhpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No