

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

CWP-11290-2022 (O&M)

Date of decision: 17.10.2022

Bank of Baroda

... Petitioner

Vs.

The Directorate of Enforcement & another

... Respondents

**CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.
HON'BLE MR. JUSTICE DEEPAK MANCHANDA.**

Present: Mr. Amit Jhanji, Sr. Advocate with
Mr. G.S. Sidhu, Advocate,
Mr. V.P. Singh, Advocate and
Ms. Zaheen Kaur, Advocate for the petitioner.

Mr. Satya Pal Jain, Addl. Solicitor General of India with
Ms. Gurmeet Kaur Gill, Sr. Panel counsel for UOI.

...

TEJINDER SINGH DHINDSA, J.

Instant writ petition is at the hands of a Public Sector
Undertaking Bank.

Challenge is to the possession notice dated 22.02.2022
(Annexure P-3) issued by the Directorate of Enforcement/respondent
No.1 directing the petitioner/bank to vacate and hand over physical
possession of the properties mortgaged by 2nd respondent i.e. M/s SRS
Finance Limited, Faridabad, Haryana with the petitioner.

Further challenge in the petition is to the order dated
31.08.2021 passed by the Adjudicating Authority in Original
Complaint No.1259/2020, whereby the provisional attachment order
dated 08.01.2020 passed by the Directorate of Enforcement qua the
properties mortgaged by 2nd respondent with the petitioner stands

affirmed.

At the stage of filing of the instant petition, categorical averments were made in para 49 of the writ petition that an appeal bearing No.4290/CHD/2021 already stands preferred before the Appellate Tribunal under Section 26 of the PMLA Act, 2002 (hereinafter to be referred to as 'the 2002 Act') assailing the order dated 31.08.2021 passed by the Adjudicating Authority. Copy of the appeal also stands annexed as Annexure P-33 along with the instant writ petition. Filing of the present petition was sought to be justified on the ground that the Presiding Chairman of the Appellate Tribunal under the 2002 Act had not been appointed by the Government of India.

During the course of hearing today, counsel for the parties are *ad idem* that the Appellate Tribunal under Section 26 of the 2002 Act is presently functional.

Under such circumstances, withdrawal of the instant writ petition is sought with liberty to pursue the appeal that had already been filed at Annexure P-33 as also the application that had been filed along with the appeal seeking interim relief.

In view of such development, writ petition is disposed of as withdrawn.

Liberty is granted to the petitioner to pursue the appeal filed under Section 26 of the 2002 Act before the Appellate Tribunal

as also the application seeking interim relief.

While disposing of the writ petition, it is directed that status quo with regard to properties in question would be maintained till such time the application seeking interim relief filed by the petitioner along with the appeal under Section 26 of the 2002 Act is not decided by the Appellate Tribunal.

We may, however, clarify that we have not examined the issue on merits.

Writ petition is disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

17.10.2022
harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |