Neutral Citation No. 2023:PHHC:064563-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(264) **CWP-889-2022 (O&M)**
Decided on : 04.05.2023

M/s Bholenath Trading Co. & others ……Petitioner(s)

Versus

Authorized Officer, SBI, Rajpura & others ……Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN

Present: None for the petitioner (s).

Ms.Manjari Joshi, Advocate, for respondent Nos.1 & 2-Bank.

*****

G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition filed under Articles 226/227 of the Constitution of India is to the securitization proceedings including the possession notice dated 18.01.2021 (Annexure P-3) and the subsequent notice of the Revenue Officer (Annexure P-4) whereby possession was sought to be taken.

2. Counsel for the respondent-Bank while referring to the reply points out that Annexures P-2 & P-3 appended along with the writ petition was withdrawn and that fresh notices had been issued which are dated 25.04.2022 and 29.07.2022.

3. A perusal of the same would go on to show that the outstanding is Rs.60,34,524.63 as on 25.04.2022. Notice of motion was issued on 17.01.2022 and the interim order was passed on 27.01.2022. The same reads as under:

> "Ms.Manjari Joshi, Advocate has put in appearance on behalf of the respondents.
>
> List the matter on 03.03.2022, since there is a stay of dispossession by financial institutions of residential properties till 28.02.2022 by order dt. 20.01.2022, passed in CWP-PIL-77-2021."

4. It is not disputed that thereafter, order was passed on 07.03.2022 and all interim orders duly stood vacated in CWP-PIL No.77 of 2021. Resultantly, position is changed and we are of the considered opinion that there is an alternative and efficacious remedy available, if the petitioners wish to challenges the notice issued under Section 13 (4) in accordance with law before the Debts Recovery Tribunal.

5. Resultantly, the present writ petition is held not to be maintainable and is accordingly disposed of with the aforesaid liberty to file appropriate application under Section 14 of the Limitation Act. Needless to say that the earlier Section 14 proceedings under the Securitization Act shall not be acted upon by the Bank as counsel for the petitioners fairly points out that the same were withdrawn and the respondents had applied afresh. The interim order will remain in operation for a period of two weeks from today to enable the petitioners to approach the Tribunal and thereafter the Tribunal may decide the application for stay as per law.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

04.05.2023
sailesh

Whether speaking/reasoned :	Yes	
Whether Reportable :		No