IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

105+242 ***2023:PHHC:064190-DB***

CM-18604-CWP-2022 and CM-18606-CWP-2022 in/and CWP-1264-2021
Date of Decision: 04.05.2023

Anju Bala and another .....Petitioner(s)

Versus

Housing Development Finance Corporation Ltd. ....Respondent(s)

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

Present: Mr. Dhawaljeet Dutta, Advocate, for the petitioners.

Mr. Shekhar Verma, Advocate, for the respondent.

G.S.SANDHAWALIA, J. (Oral)

1. In spite of a lifeline given by this Court on 01.09.2022, the same has not been encashed. After a period of more than 7 months, now a draft of Rs.4,00,000/- is being offered whereas the order was crystal clear that in default of the compliance, the interim order shall stand vacated.

2. As per the reply filed, the outstanding default towards unpaid EMIs and other charges as on 31.03.2022 were Rs.6,51,521/- and the entire loan already stands recalled. The total outstanding amount as on 22.04.2022 is Rs.23,41,459/-.

3. In such circumstances, we are of the considered opinion that in spite of the fact that the writ jurisdiction is an extra ordinary writ jurisdiction, this Court had invoked the jurisdiction hoping the petitioners would pay but they have miserably failed to comply with the undertaking given.

4. Keeping in view the above, we are of the considered opinion that the petitioners have an alternative and efficacious remedy as such to approach

the Tribunal under Section 17 of the Act against the notice dated 01.12.2020/16.12.2020 issued under Section 13(4) of the Act, which has been time and again laid down by the Apex Court and recently reiterated in ***SLP No. 22021-22022 of 2022, M/s. South Indian Bank Ltd. and others vs. Naveen Mathew Philip and another*** decided on 17.04.2023 wherein, it has been held that only in exceptional cases, the resort as such is to be taken to Articles 226 and 227 of the Constitution of India in financial matters.

5. Accordingly, the petition stands dismissed and we leave it open to the petitioners to avail their alternative remedy by approaching the Tribunal in accordance with law. It is also open to the petitioners to approach the respondent-financial institution for redressal of their grievances, if they so desire.

(G.S. SANDHAWALIA)
JUDGE

04.05.2023
shivani

(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking Yes
Whether reportable No