IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(125) **CWP-1366-2023**
Decided on : 18.04.2023

M/s Yamuna Rice and General Mills

……Petitioner(s)

Versus

Punjab National Bank and others

……Respondent(s)

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

Present: Mr. Arsh Aggarwal, Advocate for
Mr. Robin Dutt, Advocate for the petitioner (s).

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

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G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition filed under Articles 226/227 of the Constitution of India is to the sale notice dated 28.04.2021 (Annexure P-3) and e-auction notice dated 28.12.2022 (Annexure P-5).

2. A perusal of the notice issued under Section 13 (2) of the Securitization and Re-construction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short '2002 Act') (Annexure P-3) would go on to show that a sum of ₹1,55,04,299.6 + further interest was due on 01.04.2021 in two loan accounts. The property was thereafter put to sale, keeping in view the fact that the possession had been taken as provided under the 2002 Act.

3. In such circumstances, we are of the considered opinion that in the absence of any forthcoming to show his bonafides, the petitioner is liable to be relegated before the Tribunal in view of the fact there is an alternate remedy available as provided Section 17 of the 2002 Act.

Section 17 provides a remedy to the person who is aggrieved under the measures taken under Section 13(4) of the 2002 Act which have been time and again settled by the Apex Court and the view taken in **United Bank of India vs. Satyawati Tondon & others, (2010) 8 SCC 110** was followed. In **Union Bank of India and another vs. Panchanan Subudhi, (2010) 15 SCC 552; Kaniyalal Lalchand Sachdev and others vs. State of Maharashtra and others, (2011) 2 SCC 782; G.M., Sri Siddeshwara Co-operative Bank Ltd. & another vs. Sri Ikbal & others, 2013 (10) SCC 83; M/s Hindon Forge Pvt. Ltd. and another vs. State of Uttar Pradesh through District Magistrate Ghaziabad and another, 2018 AIR SC 5383** and **Authorized Officer, State Bank of Travancore & another vs. Mathew K.C., 2018 AIR (SC) 676,** the said view has been further reiterated.

4. Recently, the Apex Court, while dealing with notice of motion order passed by this Court whereby, the writ petition had been entertained against the securitization proceedings initiated and interim protection had been granted whereby loanees had been declared NPA contrary to the order dated 27.03.2023 passed by the Apex Court was a subject matter of consideration in ***SLP No. 17335 of 2022, Authorized Officer, Kotak Mahindra Bank vs. Anil Kumar Malhotra and another***. The Apex Court set aside the interim order and virtually directed that the petitioner to take recourse to alternative remedy by passing the following order:-

> "1. Leave granted.
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> 2. Heard learned counsel for the parties.

> 3. This appeal takes exception to the judgment and order dated 17.01.2022 passed by the High Court of Punjab and Haryana at Chandigarh in CWP No. 873 of 2022.
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> 4. We are of the considered view that the High Court was not justified in passing the impugned judgment and order.
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> 5. The impugned judgment and order has the effect of scuttling the proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.
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> 6. If the appellant was aggrieved by an order passed under Section 13(2) of the the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the appellant had an alternate remedy under the provisions of the said Act.
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> 7. In that view of the matter, the impugned judgment and order passed by the High Court is quashed and set aside and the appeal is allowed.
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> 8. Needless to state that the order passed herein would not affect the right of the appellant to take recourse to the alternate remedy.
>
> 9. Pending applications, if any, stand disposed of."

5. In such circumstances, keeping in view the settled principle of law, once securitization proceedings have been initiated after taking recourse to Section 13(4) and further possession has been taken while taking recourse to the provisions of the 2002 Act, we are of the considered opinion that firstly the remedy would lie with the Tribunal. Only in exceptional cases this Court would exercise its jurisdiction. Nothing has been shown to bring the case within the ambit of those exceptional circumstances.

6. Accordingly, the present writ petition is disposed of with the aforesaid liberty.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

18.04.2023
Naveen

Whether speaking/reasoned :	✓Yes	No
Whether Reportable :	Yes	✓No