

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

**CWP-2520-2023 (O&M)
Date of Decision:07.02.2023**

Kapil Goyal

..... Petitioner

versus

Reserve Bank of India and others

..... Respondents

**CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA
HON'BLE MR. JUSTICE SANJIV BERRY**

Present: Mr. Kanwar Abhay Singh, Advocate for the petitioner.
Mr. Harsh Chopra, Advocate for respondent No.2.

TEJINDER SINGH DHINDSA, J. (ORAL)

Petitioner herein is the principal borrower as regards a loan facility having been availed of from 3rd respondent i.e. M/s HDB Financial Services Ltd. and which was subsequently assigned to the 2nd respondent i.e. Edelweiss Asset Reconstruction Company Limited.

Challenge in the instant petition is to the proceedings initiated by the creditor under the SARFAESI Act, 2002 on account of a default in servicing the debt and which finally has led to the passing of the impugned order dated 05.12.2022 (Annexure P-8) passed by the Additional District Magistrate, Ludhiana under Section 14 of the SARFAESI Act, 2002.

Matter was taken up by this Court and arguments were addressed at some length by Mr. Kanwar Abhay Singh, counsel for the petitioner. Thereafter Mr. Harsh Chopra, Advocate who was present in Court, brought to our notice that the petitioner has already availed of his remedy and has instituted SA/77/2022 before the Debts Recovery Tribunal-III, Chandigarh in the month of May, 2022. Mr. Chopra has also made

available for perusal of this Court the zimni orders that had been passed in

the afore-noticed SA.

We find that in the instant writ petition there is not even a whisper as regards such proceedings that were initiated by the petitioner before the Debts Recovery Tribunal-III, Chandigarh. To the contrary, in para 32 of the petition it has been averred that the petitioner has not filed any such or similar petition either in this Hon'ble Court or in the Hon'ble Supreme Court of India. The petition is supported by an affidavit dated 06.02.2023 of the sole petitioner. Having been confronted with such circumstances counsel would attempt to justify by submitting that it was a mere clerical error and the mistake is *bona fide*/inadvertent. Attempt has been made to salvage the situation seeking withdrawal of the writ petition.

Conduct of the petitioner disentitles him from any relief in the instant petition that has been filed under Article 226 of the Constitution of India. We would have no hesitation in observing that a deliberate attempt has been made to mislead and to hoodwink this Court.

Petition is dismissed.

Even though this Court was inclined to impose exemplary costs but we are refraining from doing so.

(TEJINDER SINGH DHINDSA)
JUDGE

(SANJIV BERRY)
JUDGE

07.02.2023
sunita

Whether Reasoned/Speaking : Yes/No

Whether Reportable : Yes/No