

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

CWP-3903-2020(O&M)

Date of Decision: December 14, 2023

GURWINDER KUMAR BANSAL AND OTHERS Petitioners

Versus

ALLAHABAD BANK AND OTHERS Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE**

Present: Mr. Anil Bansal, Advocate for the petitioners.

Ms. Manjari Joshi, Advocate for the respondent – Bank.

LISA GILL, J.

1. Prayer in this writ petition is for quashing of proceedings under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short – ‘SARFAESI Act’) initiated by respondents No. 1 and 2 against petitioners.

2. Admittedly, petitioner No. 1 availed of Home loan facility from respondent – Bank in March, 2019. Petitioner No. 2 availed of Cash Credit Facility in year 2015. Property in question i.e. residential house as detailed in para 5 of the writ petition was mortgaged to secure the financial facilities. Admittedly, due to financial indiscipline petitioners’ account was declared Non Performing Asset (NPA) though it is submitted that such indiscipline was due to unavoidable circumstances i.e. death of father of petitioner No. 1 on account of cancer. Proceedings under SARFAESI Act were initiated with notice under Sections 13(2) and 13(4) of SARFAESI Act being issued. It is averred in the writ petition that action taken by respondent – bank under

SARFAESI Act is illegal and in contravention of specific provisions thereunder and applicable rules. It is only on receipt of notice dated 17.10.2019 that petitioners came to know about proceedings initiated by the bank under SARFAESI Act.

3. Notice of motion was issued in this writ petition on 13.02.2020 while directing that subject to deposit of ₹5 lakhs by petitioners within four weeks, operation of notice dated 17.10.2019 would remain stayed. It was further clarified that in case amount is not deposited within prescribed period, interim order would automatically stand vacated. Subsequently, on 01.02.2023, undertaking of petitioners to the effect that another sum of ₹5 lakhs would be deposited with respondent – Bank on or before 28.02.2023, was recorded while directing that in the event of any default, interim protection granted would stand vacated. It was brought to notice of this Court on 09.08.2023 that amount in terms of order dated 01.02.2023 was not deposited.

4. Having heard learned counsel for parties, we do not find any ground to interfere in this writ petition in exercise of jurisdiction under Article 226 of Constitution of India. There is weight in the argument raised by learned counsel for respondent that in view of alternate statutory remedy which was available to the petitioners, this writ petition is not entertainable. It has been held by Hon'ble the Supreme Court in a catena of judgments that interference by this Court in such like matters has to be minimal and restricted to extraordinary and exceptional circumstances. Learned counsel for petitioners is unable to point out any extraordinary and exceptional circumstance, which calls for interference. Gainful reference can be made to

judgments of Hon'ble the Supreme Court in **Union Bank of India v. Satyawati Tandon and others, 2010(8) SCC 110; Varimadugu Obi Reddy v. B. Sreenivasulu and others, 2023(1) R.C.R.(Civil) 34** and **M/s South Indian bank Ltd. and others v. Naveen Mathew Philip and another, 2023(2) RCR (Civil) 771.**

5. At this stage, learned counsel for petitioners submits that petitioners are ready and willing to finally settle the matter with respondent – Bank. However, we do not find that to be a ground for continuance of present proceedings as it was always open to parties to arrive at any mutually acceptable settlement with pendency or otherwise of writ petition being irrelevant.

6. Writ petition is, accordingly, disposed of with liberty to petitioners to avail remedy/remedies available to them in accordance with law and it is always open to the parties to arrive at any mutually acceptable settlement.

7. It is clarified that there is no expression of opinion on the merits of the controversy.

8. Pending application(s), if any, stand(s) disposed of.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

December 14, 2023
Rts

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No