

126 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-3079-2023

Date of Decision: 20.03.2023

Ahuja Enterprises India and others

.....Petitioners

Vs.

Reserve Bank of India and others

.....Respondents

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

Present: Mr. Puru Gupta, Advocate,
for the petitioners.

G.S.SANDHAWALIA, J. (ORAL)

1. The present writ petition has been filed challenging the notice dated 30.01.2023 (Annexure P-17) wherein possession of the mortgaged property has been directed to be taken over.

2. A perusal of the said order would go on to show that there is an order dated 18.01.2023 (Annexure P-18) passed by the Additional District Magistrate, Ludhiana, for taking the physical possession of the mortgaged property. The order dated 18.01.2023 (Annexure P-18) would go on to show that there was an outstanding amount of ₹4,31,95,309/- upto 02.05.2022.

3. Keeping in view the above, we are of the considered opinion that there is a remedy available to the petitioners by filing an application under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Reliance can be placed upon the judgments of the Supreme Court in **United Bank of India**

vs. Satyawati Tandon and others (2010) 8 SCC 110 and Varimadugu Obi Reddy vs. B. Screenivasulu and others 2023 (1) RCR (Civil) 34.

4. The Apex Court has time and again held that the petitioner without availing the alternative efficacious remedy is abusing the process of law by approaching the writ Court. Reliance can also be placed upon the observations made in Dwarikesh Sugar Industries Ltd. vs. Prem Heavy Engineering Works (P) Ltd. 1997 (6) SCC 450, wherein similar principles had been laid down for bank guarantees and it was held that it amounted to judicial adventurism and cannot be permitted and the tendency of the Courts including the High Court as such to ignore the settled law and entertain the petitions had been commented upon.

In such circumstances, we are not inclined to exercise the extra ordinary writ jurisdiction, keeping in view the heavy outstanding amount which is due.

Accordingly, the present writ petition is dismissed.

(G.S. SANDHAWALIA)
JUDGE

March 20, 2023
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(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether Reportable	No