

CWP-3792-2023

Date of Decision: August 29, 2023

KRISHAN AND ANOTHER

..... Petitioners

Versus**SHUBHAM HOUSING DEVELOPMENT FINANCE CO. LTD. AND
ANR**

..... Respondents

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

Present: Mr.Neeraj Kumar, Advocate for the petitioners.

Mr. K.P.S. Dhillon, Advocate for respondent No. 1.

Mr. Sukhdeep Parmar, Sr. DAG, Haryana.

LISA GILL, J.

1. Prayer in this writ petition is for quashing order dated 09.01.2023 (Annexure P4) passed by learned District Magistrate, Rohtak under Section 14 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short – ‘SARFAESI Act’).

2. Learned counsel for respondent No. 1 submits that he has instructions to the effect that notice(s) under Sections 13(2) and 13(4) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short – ‘SARFAESI Act’) issued by respondent No. 1 are being withdrawn due to certain technical defects in the same. It has come to notice of the said respondent that these notice(s) were incorrectly issued to legal heirs of Krishan i.e. petitioner No. 1, whereas he is still alive. It is further informed that sum of ₹50 lakhs deposited by the

petitioners pursuant to the undertaking as recorded on 23.02.2023 passed in this writ petition, has been adjusted qua dues from petitioner No. 1. As of now, sum of ₹2,09,000/- it is stated, is due and respondent No. 1 would take necessary steps in accordance with law for recovery of the same. However, it is reiterated that present writ petition challenging order dated 09.01.2023 is rendered infructuous.

3. Learned counsel for the petitioners, however, disputes that a sum of ₹2,09,000/- is due.

4. Be that as it may, present writ petition is indeed rendered infructuous and there is no question of continuance of present proceedings in view of withdrawal of notices under Sections 13(2) and 13(4) of SARFAESI Act, pursuant to which order dated 09.01.2023 was passed by learned District Magistrate, Rohtak.

5. Accordingly, present writ petition is disposed of as infructuous with liberty to the petitioners to avail the remedy/remedies available to them in accordance with law qua any of their subsisting grievance besides liberty to challenge any further proceedings, if any, initiated by respondent No. 1, as per remedy available to them under the SARFAESI Act.

6. There is no expression of opinion on the merits of the matter.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

August 29, 2023

rts

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No