

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(117)

CWP-9098-2023

Decided on :29.04.2023

Anuradha Mittal and another

.....Petitioner(s)

Versus

Cholamandalam Investment and Finance Company Limited and others

.....Respondent(s)

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

Present: Mr. Arpit Chawla, Advocate for the petitioner (s).

G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition filed under Articles 226/227 of the Constitution of India is to the securitization proceedings including the possession notice dated 27.12.2022 (Annexure P-11) wherein the Financial Institute is seeking to recover Rs.64,84,900.65.

2. Counsel has raised various arguments including the fact that there is a insurance policy benefit of which was payable and objections have been filed on 23.10.2022 (Annexure P-9) and property was not registered with the Central Registration Agency, as per the provisions of the Act.

3. We have also seen the reply of the respondent-finance company dated 15.11.2022 (Annexure P-10) wherein it has been mentioned that the insurance was in the name of co-borrower Rajiv Mittal and death was of the Manohar Lal. Rajiv Mittal is petitioner No.2.

4. In such circumstances, we are of the considered opinion that in the absence of any amount being offered in order to show bonafides of at

least 25% of the dues which are outstandings since the respondent-Finance Company is seeking to recover in accordance with law, no case is made out to entertain the present petition. The Tribunal has been vested with a wide range of powers under Section 17 of the Securitization and Re-construction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short ‘2002 Act’), which can be enforced by filing an securitization application. Keeping in view the provisions of Section 17 (2) & (3) of the 2002 Act and the observations made by the Apex Court in **SLP No. 22021-22022 of 2022, M/s. South India Bank Ltd. and others vs. Naveen Mathew Philip and another** decided on 17.04.2023, no case is made out to exercise the extra-ordinary writ jurisdiction in the facts and circumstances.

5. Resultantly, the present petition is dismissed as not maintainable and the petitioners are relegated to the remedy before the Tribunal.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

29.04.2023
Naveen

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