

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(127)

CWP-7721-2023

Decided on : 20.04.2023

Subhash Madan & another

.....Petitioner(s)

Versus

District Magistrate & 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).

Mr.D.K.Singal, Advocate
and Mr.Rahul Garg, Advocate, for respondent Nos.2 & 3.

G.S. Sandhawalia, J. (Oral)

1. Challenge is to the securitization proceedings and the possession notice dated 28.12.2021 (Annexure P-9) wherein Rs.38,34,767/- was due as on 17.03.2021.
2. On having advance notice, counsel for the financial institution, respondent Nos.2 & 3 has put in appearance and submits that the outstandings are to the tune of Rs.25 lakhs.
3. It is not disputed that symbolic possession has been taken and the physical possession will now be taken on account of the fact that application filed under Section 14 of the Securitization and Re-construction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, the 'Act') has been allowed which would be clear from the order of the District Magistrate dated 29.08.2022 (Annexure P-5).

4. In such circumstances, we are of the considered opinion that there is an alternate and efficacious remedy available to the petitioners to approach the Tribunal under Section 17 of the Act regarding any statutory violation as it is now contended that the loan has been assigned from respondent No.4 to respondent Nos.2 & 3. It has been time and again laid down by the Apex Court and recently reiterated 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 wherein, it has been held that only in exceptional cases, the resort as such is to be taken to Articles 226 and 227 of the Constitution of India in financial matters. Since the counsel has shown no inclination to furnish a bank draft of even 25% of the amount to show his *bona fides*, we are not inclined to exercise our extra ordinary writ jurisdiction. If there is any statutory violation, the petitioners can always point it out for grant relief of restoration of possession before the Tribunal.

5. Accordingly, the petition stands dismissed with the aforesaid liberty.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

20.04.2023
Sailesh

Whether speaking/reasoned :	Yes	
Whether Reportable :		No