

CWP-9442-2023

:1:

2023:PHHC:132515-DB

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

111

CWP-9442-2023

Date of Decision: 11.10.2023

M/S VISHVAS TRACTORS LIMITED AND OTHERS

... Petitioners

VERSUS

**CENTRAL BANK OF INDIA, MID
CORPORATE FINANCE BRANCH**

....Respondent

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

Present: Mr. S. S. Sahu, Advocate
for the petitioners.

Mr. Gaurav Goel, Advocate
for the respondent-Bank.

LISA GILL, J.(Oral)

1. Prayer in this writ petition is for setting aside notice dated 28.12.2016 (Annexure P-2) under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act), 2002, possession notice dated 11.04.2017 (Annexure P-6) under Section 13(4) SARFAESI Act of as well as sale notice dated 13.12.2019. There is a further prayer to set aside sale of the secured asset conducted on 08.01.2020 (Annexure P-15) pursuant to notice dated 13.12.2019.

2. Learned counsel for the petitioners vehemently argues that entire proceedings initiated under SARFAESI Act by the respondent are in utter violation of provisions thereunder. Proper service of above mentioned notices was not effected upon the petitioners. Moreover, valuation of property was not carried out in accordance with law and

mandatory notice period of 30 days before sale of the property was not afforded.

3. Learned counsel for the respondent-Bank (on advance notice) submits that entire procedure was carried out in accordance with law. Learned counsel for the respondent-Bank further submits that properties in question could not be sold at the first instance when the sale notice was issued but were sold on subsequent occasions, one after issuance of fourth sale notice and another after the fifth sale notice. An objection qua entertainability of the writ petition has also been raised.

4. Heard learned counsel for the parties and have gone through the file with their able assistance.

5. Learned counsel for the petitioners is unable to deny that petitioners did have an efficacious remedy under the SARFAESI Act for redressal of their grievance/grievances as have been raised in this writ petition. SARFAESI Act is admittedly a complete code in itself. It is a settled position of law that in cases like the present, there has to be minimal intervention by the Court. Gainful reference in this regard can be made to judgment of Hon'ble the Supreme Court in **Union Bank of India v. Satyawati Tandon and others**, 2010(8) SCC 110 wherein it was held as under:-

“15. The object and reasons behind the Act 54 of 2002 are very clear as observed by this Court in Mardia Chemicals Ltd. v. Union of India, (2004) 4 SCC 311. While it facilitates a faster and smoother mode of recovery sans any interference from the Court, it does provide a fair mechanism in the form of the Tribunal being manned by a legally trained mind. The Tribunal is clothed with a wide range of

powers to set aside an illegal order, and thereafter, grant consequential reliefs, including re-possession and payment of compensation and costs. Section 17(1) of the SARFAESI Act gives an expansive meaning to the expression "any person", who could approach the Tribunal.

XXX

18. While doing so, we are conscious of the fact that the powers conferred under Article 226 of the Constitution of India are rather wide but are required to be exercised only in extraordinary circumstances in matters pertaining to proceedings and adjudicatory scheme qua a statute, more so in commercial matters involving a lender and a borrower, when the legislature has provided for a specific mechanism for appropriate redressal.”

6. Learned counsel for the petitioners is unable to point out any extraordinary or exceptional circumstance which calls for interference by this Court in exercise of jurisdiction under Article 226 of the Constitution of India.

7. Keeping in view the facts and circumstances of the matter, writ petition is accordingly dismissed with liberty to the petitioners to avail the remedy/remedies as available to them in accordance with law. There is no expression of opinion on the merits of the controversy.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

11.10.2023
Rimpal

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No