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

(138) **CWP-8024-2023**
Decided on :24.04.2023

Sunit Aggarwal & another ……Petitioner(s)

Versus

Bajaj Finance Ltd. & another ……Respondent(s)

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

Present: Mr.Rishu Garg, Advocate for the petitioner (s).

Mr.Sameer Mahajan, Advocate, for the respondent-Bank.

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G.S. Sandhawalia, J. (Oral)

1. Challenge in the present writ petition, filed under Article 226/227 of the Constitution of India is to the notice dated 15.02.2023 (Annexure P-9) issued under Section 13(4) of the Securitization and Re-construction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, the 'Act') whereby outstanding was Rs.32,80,581/- and symbolic possession was accordingly taken.

2. The present petition was filed attaching 2 cheques of Rs.1,00,000/- dated 29.11.2022 (Annexure P-3) and Rs.30,000/- dated 07.12.2022 (Annexure P-4) along with a demand draft of Rs.17,21,700/- dated 23.01.2023 (Annexure P-5) to show that the petitioners are willing to settle the account.

3. On anticipating the usual methodology which is used to delay recovery, this Court passed the order on 20.04.2023 to produce the original demand draft. Surprisingly instead of demand draft of Rs.17,21,700/-, a demand draft of Rs.7,21,700/- dated 24.04.2023 has now been produced by counsel for the petitioners. The lame excuse of Rs.10,00,000/- having been utilized elsewhere during the intervening period is now being raised. Apparently, the conduct of the petitioners itself smacks of mala fides and an attempt to mislead the Court while seeking the benefit of this Court to exercise its extraordinary writ jurisdiction even though there is a provision to approach the Tribunal.

4. Accordingly, 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. 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. Accordingly, we are not inclined to exercise our extra ordinary writ jurisdiction. If there is any statutory violation, the Tribunal can always look into it and grant relief of restoration of possession.

5. Counsel for the respondent-Bank is present to whom we hand-over the draft of Rs.7,21,700/- in original, after retaining a photocopy of the same. The financial institution may credit the draft against the dues of the petitioners but shall remit a sum of Rs.1,00,000/- as costs which will be deposited with the Registrar General of this Court. The said amount thereafter will be sent to the PGI Poor Patients Fund, for proper utilization. The balance amount will be adjusted against the dues of the petitioners. It would be open to the petitioners to seek their remedy before the Tribunal in view of the order passed.

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

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

24.04.2023
Sailesh

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