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112 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2424-2023 (O&M)
Date of Decision: 26.04.2023

Axis Bank Ltd.

..... Petitioner

Versus

M/s Precon Technology & Casting Ltd.

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Gaurav Goel, Advocate,
for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

This is a petition filed under Article 227 of the Constitution of India for early disposal of the applications filed by the petitioner in Civil Suit No.865/2021 titled as M/s Precon Technology and Casting Ltd. Vs. Axis Bank Ltd, under Order VII Rule 11 of the Code of Civil Procedure, 1908, for rejection of the plaint (Annexure P-12) and under Order XXXIX Rule 4 of the Code of Civil Procedure, 1908, for vacation of the status qua order dated 01.03.2021 (Annexure P-14) and subsequent extension of the same from time to time passed by the Court below in the application under Order XXXIX Rules 1 and 2 filed by the respondent.

It is submitted by the learned counsel for the petitioner that, undisputedly, the statutory proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act') had been initiated by the

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petitioner even before the suit was entertained by the Civil Court at the instance of the respondent. Once the proceedings under the SARFAESI Act are initiated, the jurisdiction of the Civil Court is barred under Section 34 of the SARFAESI Act. Relying upon the judgments rendered by the Hon'ble Supreme Court in **Civil Appeal No.9771 of 2013** titled as '**Jagdish Singh Vs. Heeralal and others**' decided on **30.10.2013** and **SLP (Civil) Nos.22021-22022 of 2022** titled as '**M/s South Indian Bank Ltd. and others Vs. Naveen Mathew Philip and another etc. etc**' decided on **17.04.2023**, learned counsel for the petitioner has submitted that the Courts below are not even supposed to interfere in the process of recovery once the process is initiated under the SARFAESI Act. Hence, the interim order granted by the Trial Court deserves to be set aside. Learned counsel has further submitted that the other applications filed by the petitioner challenging the very maintainability of the suit before the Trial Court and the applications under Order VII Rule 11 of the Code of Civil Procedure, 1908, for rejection of the plaint (Annexure P-12) and under Order XXXIX Rule 4 of the Code of Civil Procedure, 1908, for vacation of the status quo order dated 01.03.2021 (Annexure P-14) are still pending before the Trial Court, however, no action is being taken upon it since a long time.

In view of the above, it would be appropriate if the Trial Court is directed to take a final decision on the applications (Annexures P-12 and P-14) filed by the petitioner before the Trial Court and the interim order is limited only till the date the decision is taken upon those applications, unless the petitioner fails in the said applications.

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Accordingly, the present petition is disposed of by directing the Trial Court to take a final decision on the applications (Annexures P-12 and P-14) within a period of four weeks from the date of receipt of the certified copy of this order. However, the interim order granted by the Trial Court shall continue till the date of such decision by the Trial Court. Further continuation of which shall depend upon fate of the above said applications.

It is further clarified that mere retention of the interim order by this Court, as above, would not be taken as adverse to the interest of the petitioner at the time of disposal of the said applications.

Since, the main petition has been disposed of, therefore, the pending application is also disposed of; as such.

(RAJBIR SEHRAWAT)
JUDGE

26.04.2023
adhikari

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