

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

CWP-8717-2023 (O&M)

DATE OF DECISION: 26.04.2023

M/S LEKH RAJ AND SONS AND OTHERS

.....PETITIONERS

VS.

UNION BANK OF INDIA AND ANOTHER

.....RESPONDENTS

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

Present: Mr. Abhilaksh Grover, Advocate, for the petitioners.

Mr. Saurabh Bhardwaj, Advocate, for the respondents.

G.S.SANDHAWALIA, J. (ORAL)

1. The challenge in the present petition is to the auction notice dated 06.04.2023 (Annexure P-10) whereby the Bank is putting the property to auction measuring 95 kanals and 17 marla on 26.04.2023 for a reserve price of ₹30,38,10,000/-.

2. The outstanding in the present case are in the range of ₹51,29,30,000/- as on 31.10.2019. It has also been brought to our notice that on an earlier occasion, a Civil Writ Petition No. 4760 of 2023 was also filed by petitioner No. 3 herein challenging the earlier auction notice dated 16.02.2023, which was dismissed as withdrawn on 19.04.2023 as having been rendered infructuous since the auction could not fructify.

3. In view of the above, we are of the considered opinion that filing of repeated writ petitions challenging the auction proceedings on various grounds including the fact that the reserve price had been fixed at a lower level is uncalled for apart from the fact that there has been no

reference to the earlier writ petition. The said challenge unnecessarily stalls the auction proceedings as prospective bidders shy away from participating in the bids since matters are pending before Courts.

4. Even otherwise, the cause of action is pre-mature and would only arise once the bid as such has been received and finalized. Apparently, the possession notice under Section 13 (4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (for short 'the Act') is not subject matter of challenge herein which would have given a cause of action to approach the Tribunal under Section 17 of the Act. The physical possession has also been taken by the respondent-Bank keeping in view of the proceedings initiated under Section 13 (4) of the Act.

5. The provisions of Section 17 (2) and (3) are very widely worded that the challenge can be raised to any of the measures referred to in sub-section (4) of Section 13 taken by the secured creditor, which are not in accordance with the provisions of the Act and the Rules made thereunder.

6. In such circumstances, we are of the considered opinion that the present writ petition is not maintainable before this Court.

7. Accordingly, the petition is dismissed.

(G.S. SANDHAWALIA)
JUDGE

April 26, 2023
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether Reportable	No