IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

140 ***2023:PHHC:066561-DB***

CWP-10035-2023
Date of Decision: 09.05.2023

Bittu and others .....Petitioner(s)

Versus

District Magistrate, Sonipat and others ....Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Gaurav Tyagi, Advocate,
for the petitioners.

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G.S.SANDHAWALIA, J. (Oral)

1. Challenge in the present writ petition filed under Articles 226 and 227 of the Constitution of India is to the securitization proceedings including the possession notice dated 07.10.2022 (Annexure P-8) issued under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'the Act').

2. A perusal of the notice dated 13.06.2022 (Annexure P-7) issued under Section 13(2) of the Act would go on to show that a loan of Rs.50,00,000/- was sanctioned on 11.03.2020 and the details of the mortgaged property was mentioned. Apparently, the notice was not replied to under Section 13(3A) of the Act and thereafter, the possession notice has been issued. Resultantly, the bank is proceeding to recovery its outstandings pertaining to possession by implementing the orders of the District Magistrate dated 29.11.2022 (Annexure P-9) passed under Section 14 of the Act. The petitioner is now alleging fraud on the ground that his brother had taken the loan and some signatures were forged.

It is settled principle that the writ Court would not go into the disputed questions of facts. The petitioners have the remedy to approach the Tribunal under Section 17 of the Act against the notice issued under Section 13(4) of the Act, which has been time and again laid down by the Apex Court and recently reiterated in ***SLP No. 22021-22022 of 2022, M/s. South Indian 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. Even otherwise, the petitioners have shown no inclination to furnish a bank draft of even 25% of the amount to show their *bona fides.* Thus, we are not inclined to exercise our extra ordinary writ jurisdiction.

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

(G.S. SANDHAWALIA)
JUDGE

09.05.2023
shivani

(GURBIR SINGH)
JUDGE

Whether reasoned/speaking Yes
Whether reportable No