IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10490-2023 (O&M)
Date of Decision: 05.10.2023

M/S VISHAL OSWAL HOSIERY ...... Petitioner(s)

Versus

INDUSIND BANK AND ANOTHER ..... Respondent(s)

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

Present: Mr. Bhavesh Aggarwal, Advocate for the petitioner.

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LISA GILL, J.

1. Prayer in this writ petition is for quashing demand notice dated 30.10.2021 (Annexure P-1) under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the SARFAESI Act) and possession notice dated 18.02.2022 (Annexure P-2) under Section 13(4) of SARFAESI Act. There is a further prayer for directing the respondents to decide representation dated 10.05.2023 (Annexure P-4), submitted by the petitioner firm for One Time Settlement (OTS).

2. Brief facts necessary for adjudication of the matter are that petitioner had availed facility of three loans of ₹22,30,000/-, ₹10,00,000/- and ₹4,45,000/- from the respondent-Bank in the years 2019 and 2020. Due to financial indiscipline, petitioner's account was declared Non Performing Asset (NPA) on 06.08.2021. Notice dated 30.10.2021 (Annexure P-1) was issued under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the SARFAESI Act). Thereafter, notice dated 18.02.2022 (Annexure P-2) under

Section 13(4) of SARFAESI Act was issued. Order under Section 14 of the SARFAESI Act was passed by Executive Magistrate, Ludhiana on 17.02.2023 (Annexure P-3). A representation/One Time Settlement (OTS) proposal dated 10.05.2023 (Annexure P-4), was submitted by the petitioner firm but no decision, it is submitted has been taken thereon by the respondent-Bank. Learned counsel for the petitioner submits that proceedings under the SARFAESI Act initiated by respondent-bank are totally in violation of provisions thereof. Moreover, decision should be taken on the proposal submitted by petitioner before proceeding further. Therefore, the present writ petition has been filed.

3. Heard.

4. Learned counsel for the petitioner is unable to deny that SARFAESI Act is a complete code in itself. Present writ petition is not entertainable for the relief as sought. Petitioner has an efficacious statutory remedy. No extra ordinary or exceptional ground has been pointed by learned counsel for the petitioner, which impels us to interfere in this matter. Gainful reference in this regard can be made to judgments of the Hon'ble Supreme Court in ***Union Bank of India vs. Satyawati Tandon and others, 2010(8) SCC 110, Varimadugu Obi Reddy v. B. Sreenivasulu and others, 2023(1) R.C.R. (Civil) 34, M/s South Indian Bank Ltd. and others v. Naveen Mathew Philip and another, 2023(2) RCR (Civil) 771.***

5. This writ petition is accordingly dismissed with liberty to the petitioner to avail the remedy/remedies as available to it, in accordance with law. There is no expression of opinion on the merits of the controversy.

6. Pending miscellaneous applications, if any, stand disposed of accordingly as well.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

05.10.2023
Sunil

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No