Neutral Citation No. 2023:PHHC:062878-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(210) **CWP-13637 -2022**
Decided on :02.05.2023

Varun Garg

……Petitioner(s)

Versus

State of Punjab and another

……Respondent(s)

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

Present: Mr. Raman Kumar, Advocate for
Mr. Naveen Batra, Advocate for the petitioner (s).

Mr. Navneet Singh, Sr. DAG, Punjab.

Mr. Gaurav Goel, Advocate for respondent No.2.

G.S. Sandhawalia, J. (Oral)

Challenge in the present petition filed under Articles 226/227 of the Constitution of India is made to the notice dated 03.06.2022 (Annexure P-7) issued under Section 13 (4) of the Securitization and Re-construction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short '2002 Act').

2. On 12.07.2022 the following order was passed:-

> "Notice of motion for 08.09.2022.
>
> Mr. Gaurav Goel, Advocate accepts notice on behalf of respondent No.2, and seeks time to file reply. May do so, on or before the next date of hearing with a copy in advance to the counsel opposite.
>
> Counsel for the petitioner inter alia contends that the petitioner loan account could not have been declared as NPA because it was MSME, and certain payments have been made within 180 days window prior to the date when the account was declared as NPA. He further contended that to the notice dt. 03.01.2022 issued under Section 13 (2) of the SARFAESI Act, 2002 objections have been filed on 17.02.2022, that proof of service of the same has also been filed, but they have not been considered by respondent No.2-Bank.

Counsel for respondent-Bank states that the objections under Section 13(2) of the SARFAESI Act said to have been filed by the petitioner have not been received by the respondent-Bank.

Counsel for the petitioner however states that as per Annexure P-5, the objections sent by registered post (acknowledgment due) have been received by the respondent-Bank.

Prima facie, it appears that the objections filed by the petitioner to the notice under Section 13(2) of the SARFAESI Act issued by the respondent-Bank were received by the respondent-Bank, but they have not been considered, and without considering the same, notice under Section 13(4) of the SARFAESI Act dt. 03.06.2022 has been issued. Therefore, there shall be stay of all coercive proceedings against the petitioner until further orders."

3. Today, Mr. Goel has placed on record photocopy of the e-mail received from Chief Manager of the respondent-Bank that they will withdraw the notice issued under Section 13 (2) of the 2002 Act. He, however, submits that liberty be given to the respondent-Bank to proceed in accordance with law.

4. Keeping in view the above, we are of the considered opinion that the present petition has been rendered infructuous, in view of the statement made by Mr. Goel.

5. Resultantly, the present petition is dismissed as having been rendered infructuous by binding down the respondent-Bank to the statement made by the counsel. It is, however, clarified that it will be open to the respondent-Bank to proceed in accordance with law and the petitioner is at liberty to challenge the same, if so desires.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

02.05.2023
Naveen

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