

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARHCM-4888-CWP-2023 in/and
CWP-16992-2022 (O&M)
Date of Decision: 21.03.2023

Rajinder Kumar and others

.....Petitioners

Vs.

RBL Bank Ltd. and others

.....Respondents

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

Present: Mr. Vivek Thakral, Advocate, for the petitioners.

Mr. C.S. Pasricha, Advocate, with
Mr. Sushil K. Bhardwaj, Advocate,
for respondent No. 1-Bank.

G.S.SANDHAWALIA, J. (ORAL)

1. CM-4888-CWP-2023 has been filed for staying the auction which is stated to be held on 21.03.2023.

2. As per the application filed, it is apparent that the petitioners have already approached before the Debt Recovery Tribunal-III, Chandigarh,(hereinafter referred to as the Tribunal), and one SA bearing No. 36/2023 is also pending before the Tribunal, in which the next date of hearing is fixed for 15.04.2023.

3. Keeping in view the above, we prepone the hearing in the main case from 04.05.2023 to today.

4. A perusal of the notice dated 29.09.2021 (Annexure P-1) issued under Section 13 (2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, would go on to show that a sum of Rs. 40,39,124/- was due. The co-ordinate Bench had directed that a sum of Rs. 10,00,000/- be paid within two months and

the petitioner would not be dispossessed from the secured asset. It was a conditional order in as much as default of compliance of the order, it would stand vacated. Apparently, the same was not done and miscellaneous application bearing CM-16898-CWP-2022 came to be filed by the bank for vacation of stay whereas CM-17273-CWP-2022 was filed for extension of time, wherein it was averred that Rs. 2.45 lakhs had been deposited and the balance amount of Rs. 7.55 lakhs be permitted to be deposited.

5. We are of the considered opinion that it was a conditional order and accordingly, stood vacated and therefore no case is made out for extension of time even otherwise since the matter is already pending before the Tribunal. Thus, we are of the considered opinion that keeping in view the law laid down by the Hon'ble Supreme Court in **United Bank of India vs. Satyawati Tandon and others** (2010) 8 SCC 110, there is alternative and efficacious remedy available which has already been availed of, the present writ petition would not be maintainable.

6. In such circumstances, it would not be appropriate to open up another front on the same cause of action.

7. Resultantly, the petition is dismissed.

8. Pending miscellaneous application (s), if any, also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

March 21, 2023
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether Reportable	No