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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-14332-2023 (O&M)
Date of Decision: 12.12.2023

Dharambir Sharma and another .... Petitioners

Versus

HDFC Bank Ltd. and another ...... Respondents

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

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Present: Mr. Ashok Kaushik, Advocate for the petitioners.

Mr.Abhinav Sood and Ms.Anmol Gupta, Advocates for the respondents.

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LISA GILL, J.(Oral)

1. Prayer in this petition is for quashing order dated 16.05.2023 statedly despatched on 14.06.2023 (Annexure P-10) whereby police help has been provided for taking over possession of the house where petitioner's family is residing. Further prayer is for issuance of direction to respondents to restructure the loan instalment of petitioner No.1.

2. Loan facility was availed of by petitioners No. 1 and 2 (two accounts each. On account of financial indiscipline, accounts of petitioners were declared Non Performing Asset (NPA) on 07.12.2020 and proceedings under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act') were initiated with notice(s) under Section 13 (2) and 13 (4) being issued on

18.09.2021 and 16.12.2021 respectively. Order under Section 14 of the SARFAESI Act was passed on 14.06.2023 by the concerned District Magistrate. Aggrieved of said action of respondents, present writ petition was filed.

3. It is submitted by learned counsel for petitioners that petitioners admittedly filed a suit for permanent and mandatory injunction which is still pending. Respondent-bank, it is submitted, had been restrained from selling/auctioning the secured assets except in due course of law as well as from dispossessing the petitioners therefrom. It is further submitted that account of petitioner No.1 was approved for restructuring, however, needful was not done by the respondent-bank. On 31.12.2020, despite approval of restructuring, necessary action was not taken and it is only due to this reason that account of the petitioners was declared as NPA. Various other grounds have been raised by learned counsel for the petitioners to submit that proceedings initiated under SARFEASI Act are illegal and arbitrary. It is thus prayed that this writ petition be allowed.

4. Having heard learned counsel for the parties we do not find any ground whatsoever to interfere in exercise of jurisdiction under Article 226 of the Constitution of India. Petitioners admittedly have an alternate efficacious remedy. It is a settled position that SARFAESI Act is a complete Code in itself providing for remedies for redressal of grievance(s) which any person may have in respect to action taken thereunder. It has been held by the Hon'ble Supreme Court in a number of cases including ***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*** and ***M/s South Indian Bank Ltd and others v. Naveen Mathew Philip and anohter,***

2023(2) RCR (Civil) 771 that interference by High Court in such like matters should be minimal and actuated only in exceptional or extraordinary circumstances. Learned counsel for the petitioners is unable to point out any exceptional or extraordinary circumstance which calls for interference by this Court. Petitioners are always at liberty to take all available pleas before the appropriate forum. At this stage, learned counsel for petitioners submits that there is a possibility of an amicable settlement and the matter is under consideration.

7. Be that as it may, we do not find any justification for continuation of present proceedings. This writ petition is accordingly disposed of with liberty to the petitioners to avail the statutory remedy/remedies as may be available to them in accordance with law for redressal of any grievance they might have qua proceedings undertaken under the SARFAESI Act. It is further open to the parties to enter into any mutually acceptable settlement. There is no expression of opinion on the merits of the matter.

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

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

12.12.2023
sunita

Whether speaking/non speaking Yes/No
Whether reportable/non reportable Yes/No