

CWP-14706-2023

**2023:PHHC:088142-DB
:1:**

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CWP-14706-2023
Date of Decision: 13.07.2023**

ANURADHA MITTAL AND OTHERS

... Petitioners

VERSUS

**CHOLAMANDALAM INVESTMENT AND FINANCE CO. LTD.
AND OTHERS**

....Respondents

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

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

Mr. Sahil Khunger, Advocate
for the respondents.

LISA GILL, J.(Oral)

1. Prayer in this writ petition is for quashing the action of respondents in classifying the loan account of which the petitioners are co-borrowers along with Mr.Manohar Lal (since deceased) as NPA on 08.09.2021. Further writ in the nature of mandamus is also sought to convert the insurance policy (Annexure P-2) wrongly issued in the name of Rajiv Mittal, petitioner No.2, in the name of Sh. Manohar Lal. Petitioners also seek setting aside of impugned notices under Section 13 (2) (Annexure P-3, P-8) and 13(4) (Annexure P-11) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act), 2002 Act.

2. Admittedly, the petitioners filed CWP-9098-2023 claiming the same relief as has been claimed in the present writ petition i.e. challenge to securitization proceedings including notice dated 27.12.2022 (Annexure P-11) under Section 13 (4) of SARFAESI Act. The said writ petition was dismissed on 29.04.2023 with the petitioners being relegated to avail their remedy before the Debt Recovery Tribunal (DRT).

3. Present writ petition has been filed on the premise that due to inadvertence certain pleas had not been taken in CWP-9098-2023 and furthermore, the concerned DRT is not functioning because of boycott of the lawyers.

4. We find no merit in both the arguments sought to be raised on behalf of learned counsel for the petitioners. In so far as the first argument is concerned the law enjoins upon a litigant to take up all available pleas while initiating any proceedings. Successive petitions for the same prayer on different grounds are not permissible. In so far as the plea that DRT is not functioning because of the boycott by the lawyers, it is to be noticed that the boycott is by the lawyers. Even if the same was to be accepted, it is to be noted in this particular matter that said boycott is stated to have started on 07.06.2023 but the petitioners have admittedly not taken any action from 29.04.2023 till the filing of this writ petition on 10.07.2023 on the premise that possession of the secured (house) shall be taken on 13.07.2023 as per notice dated 28.06.2023, Annexure P-12.

5. Keeping in view the facts and circumstances, we find no ground to interfere in the present writ petition. Writ petition is accordingly dismissed.

6. However, the petitioners are at liberty to avail the remedy

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as may be available to them in accordance with law. It is clarified that there is no expression of opinion on the merits of the controversy.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

13.07.2023
Rimpal

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