

CWP-17740-2022

**2023:PHHC:103091-DB
:1:**

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

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**CWP-17740-2022
Date of Decision: 08.08.2023**

M/S P.K. HOSIERY AND ANR

... Petitioners

VERSUS

DCB BANK LTD AND ANR

....Respondents

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

Present: Mrs. Shivya Sehgal, Advocate
for the petitioners.

Mr. Vikas Kumar Gupta, Advocate for
Mr. Hashmat Nabi, Advocate
for respondent No.1.

LISA GILL, J.(Oral)

1. Prayer in this writ petition is for issuance of directions to respondents to decide representation dated 02.02.2022 (Annexure P-2) and 01.08.2022 (Annexure P-3). Further prayer is to quash notice dated 17.11.2021 under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act), 2002 Act.

2. It is contended that account of the petitioners was declared Non-Performing Asset (NPA) in violation of categoric provisions of the SARFAESI Act. Moreover, respondent it is submitted has not decided objections filed by the petitioners and has also not taken any decision on the proposal for One Time Settlement (OTS) submitted by them. Various other grounds have been raised by learned counsel for the petitioners to substantiate the averments in the writ petition. However, she is unable to

deny that an alternate efficacious remedy is available to the petitioners for redressal of their grievance as has been held in view of judgments of the Hon'ble Supreme Court in Union Bank of India v. 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 and Division Bench judgment of this High Court in CWP No.10738 of 2022 (M/s Harinder Fabrics v. Shriram City Union Finance Ltd.) decided on 04.05.2023. Hon'ble the Supreme Court in the case of M/s South Indian Bank (supra) while reiterating its earlier judgments held that where an alternate efficacious remedy is available to the litigant before a Forum constituted under a statute, interference by the High Court in exercise of jurisdiction under Article 226 of Constitution of India should be restricted to exceptional cases It was held that :-

“15. The object and reasons behind the Act 54 of 2002 are very clear as observed by this Court in Mardia Chemicals Ltd. v. Union of India, (2004) 4 SCC 311. While it facilitates a faster and smoother mode of recovery sans any interference from the Court, it does provide a fair mechanism in the form of the Tribunal being manned by a legally trained mind. The Tribunal is clothed with a wide range of powers to set aside an illegal order, and thereafter, grant consequential reliefs, including re-possession and payment of compensation and costs. Section 17(1) of the SARFAESI Act gives an expansive meaning to the expression "any person", who could

approach the Tribunal.

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18. While doing so, we are conscious of the fact that the powers conferred under Article 226 of the Constitution of India are rather wide but are required to be exercised only in extraordinary circumstances in matters pertaining to proceedings and adjudicatory scheme qua a statute, more so in commercial matters involving a lender and a borrower, when the legislature has provided for a specific mechanism for appropriate redressal.”

3. Needless to say that the Tribunal is competent to look into all the pleas as have been raised by the petitioners in this writ petition. No exceptional or extra ordinary circumstance has been pointed out in this writ petition which calls for interference by this Court in exercise of jurisdiction under Article 226 of Constitution of India. In the given factual matrix, we do not find the necessity to insist upon filing of reply/ written statement on behalf of the respondents, as has been urged before us.

4. Keeping in view the facts and circumstances as above, this writ petition is dismissed while relegating the petitioners to avail their remedy in accordance with law and take all available pleas. It is clarified that there is no expression of opinion on the merits of the matter.

5. Pending applications, if any, also stand disposed of accordingly.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

08.08.2023
Rimpal

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