

CWP-17087-2023

**2023:PHHC:101659-DB
:1:**

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

140

**CWP-17087-2023
Date of Decision: 07.08.2023**

VARUN GOEL

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

....Respondents

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

Present: Mr. Bharat Julka, Advocate
for the petitioner.

LISA GILL, J.(Oral)

1. Prayer in this writ petition is for setting aside order dated 19.07.2023 passed by respondent No.3 under Section 14 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act), 2002 Act.

2. Admittedly, the petitioner has filed SA No.21 of 2022 challenging proceedings under the SARFAESI Act initiated by the respondent-bank which is pending adjudication before learned DRT-III, Chandigarh. Copy of the SA is attached along with this petition as Annexure P-4. Petitioner therein has challenged issuance of notice under Section 13(2) as well as Section 13(4) of the SARFAESI Act. There is a prayer for interim relief which is addressed in the said SA. Matter is

admittedly pending before the learned DRT-III, Chandigarh.

3. It has been urged that possession of the residential house of the petitioner would be taken, therefore, this Court should intervene, notwithstanding pendency of the SA and in any case order dated 19.07.2023 is not under challenge therein.

4. Having heard learned counsel for the petitioner, we do not find any ground to interfere in the present writ petition for setting aside order dated 19.07.2023 under Section 14 of the SARFAESI Act in exercise of jurisdiction under Article 226 of the Constitution of India. It is undeniable that necessary amendment/prayer can be addressed by the petitioner in the pending proceedings before the learned DRT. Interference by the High Court in such like matters is not called for. Gainful reference in this respect can be made to judgments of 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.

XXX

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.”

5. Petitioner is at liberty to raise all these grounds and take all available pleas before the learned DRT in accordance with law. In case of urgency it is always open to the petitioner to file appropriate application before DRT.

6. No ground is made out for interference in this writ petition.

Accordingly, this writ petition dismissed with liberty to the petitioner to

CWP-17087-2023

2023:PHHC:101659-DB
:4:

take up all available pleas before the learned DRT in accordance with law. There is no expression of opinion on the merits of the controversy.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

07.08.2023
Rimpal

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