

CWP-17722-2023

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2023:PHHC:106098-DB

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

146

CWP-17722-2023

Date of Decision: 16.08.2023

M/S AMT INTERNATIONAL

... Petitioner

VERSUS

RESERVE BANK OF INDIA AND OTHERS

....Respondents

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

Present: Ms. Puja Chopra, Advocate
for the petitioner.

Mr. Gaurav Goel, Advocate
for the respondents No.1 to 3-Bank.

LISA GILL, J.(Oral)

1. Petitioner in this writ petition seeks a direction to respondents No.2 and 3 i.e. Punjab National Bank to desist and refrain from continuing proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act), 2002 Act against the petitioner.

2. It is submitted that account of the petitioner was declared NPA on 13.12.2021 and notice under Section 13(2) of the SARFAESI Act was issued on 07.06.2022. Notice under Section 13 (4) was issued on 02.08.2023 (Annexure P-24) with auction of the property in question scheduled for 22.08.2023.

3. Learned counsel for the petitioner submits that CWP No.23002 of 2022 filed by the petitioner seeking restructuring of its account is pending adjudication for 18.09.2023.

4. It is further submitted that the respondent-Bank has already filed OA No.1319 of 2022. Reference is made to order dated 25.07.2023 passed by DRT-I, Chandigarh in OA 1319-2022, Annexure 14, whereby all properties of the petitioner mentioned in IA No.168 of 2023 have been attached. It is submitted that there is no question of undertaking proceedings under the SARFAESI Act as the properties so attached are of greater value than the amount allegedly due from the petitioner.

5. In this view of the matter, it is submitted that there is no justification or cause for undertaking proceedings under the SARFAESI Act against the petitioner. Petitioner's counter-claim in OA-1319-2022 is also pending. Reliance has also been placed on circulars dated 06.02.2023 and 29.05.2023 Annexures P-20 and P-23, respectively to substantiate the petitioner's case.

6. Heard.

7. *De hors* the merits of the matter, learned counsel for the petitioner is unable to deny that the petitioner does have an alternate efficacious remedy under the SARFAESI Act for redressal of the grievances as raised before us. 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.”

8. Learned counsel for the petitioner is unable to point out any exceptional or extra-ordinary circumstance which calls for interference in exercise of jurisdiction under Article 226 of the Constitution of India, therefore, we do not consider it necessary or appropriate to delve upon the arguments raised by learned counsel for the petitioner. All the arguments as have been raised before us are clearly within the realm of consideration by the learned Tribunal. Furthermore, mere pendency of CWP-23002 of 2022 filed by the petitioner seeking restructuring of the loan is not a ground for interference in the present writ petition, as has been urged before us.

9. This writ petition is accordingly dismissed with liberty to the petitioner to avail the remedy available to it 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

16.08.2023
Rimpal

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