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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-21319-2022
Date of Decision: 03.10.2023

KEWAL GARG AND ANR.

... Petitioners

VERSUS

HERO FINCORP. LTD.

....Respondent

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

Present: Mr. Vaibhav Gupta, Advocate
for the petitioners.

Mr. Sanjeev Singh, Advocate and
Mr. Harsh Chopra, Advocate
for the respondent.

LISA GILL, J.(Oral)

1. Prayer in this writ petition is for setting aside notice dated 30.06.2022 (Annexure P-3) issued under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act), 2002 Act and notice under Section 13(4) of the SARFAESI Act was issued on 14.09.2022 (Annexure P-7) by the respondent.

2. Petitioners have challenged the SARFAESI proceedings initiated against them on a number of grounds which do not need any delineation at this stage because it is submitted by learned counsel for respondent that present writ petition is rendered infructuous. During pendency of this writ petition, One Time Settlement (OTS) was entered into between the parties on 14.10.2022, pursuant to which some amount

had been deposited by the petitioners and the account had been made regular/standard. However, the entire amount was not deposited and there was breach of terms and conditions of the OTS. As of now the account is again in default but not declared Non-Performing Asset (NPA) as yet. The respondent reserves its right to take action in accordance with the provisions of law.

3. Learned counsel for the petitioners submits that the breach of terms and conditions of the OTS has arisen due to death of petitioner No.2 i.e. wife petitioner No.1 who had become bedridden. LRs of petitioner No.2, it is submitted are now ready and willing to deposit the entire amount due as per the earlier OTS. Therefore, a direction be issued to the respondent to accept the same.

4. Having heard learned counsel for the parties, we do not find any merit in the submission that a direction should be issued to respondent for extending the period of earlier OTS dated 14.10.2022, especially keeping in view the judgments of Hon'ble Supreme Court in **State Bank of India Vs. Arvindra Electronics Pvt. Ltd., 2022 AIR (SC) 5517** and **The Bijnor Urban Cooperative Bank Limited, Bijnor and others Vs. Meenal Agarwal and others, 2022 AIR (SC) 56.**

5. Keeping in view the facts and circumstances as above especially in view of statement made by learned counsel for the respondent, we do not find any ground for continuance of the present proceedings. Writ petition is accordingly disposed of as infructuous without any expression of opinion on the merits of the matter or even entertainability thereof. While parties, needless to say are at liberty to

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arrive at any mutually acceptable settlement, respondent-Financial Institution is at liberty to take necessary action as may be required with petitioners being free to avail the statutory remedy(ies) as may be available to them in case of any grievance qua proceeding under SARFAESI Act, if any, initiated against them by the respondent-Financial Institution.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

03.10.2023
Rimpal

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