

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

109+290+291

2023:PHHC:065882-DB

CWP Nos. 22630, 22439 and 22457 of 2022

Date of Decision: 08.05.2023

Anish Enterprises and another

.....Petitioner(s)

Versus

Punjab National Bank and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE GURBIR SINGH**

Present: None for the petitioners.

Mr. D.K. Gupta, Advocate,
for Punjab National Bank.

G.S.SANDHAWALIA, J. (Oral)

1. The present order shall dispose of three writ petitions i.e. CWP Nos. 22630, 22439 and 22457-2022.

2. In CWP-22630-2022, challenge has been raised to the securitization proceedings including the notice dated 06.10.2021 (Annexure P-6) issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'the Act') and possession notice dated 11.01.2022 (Annexure P-8) issued under Section 13(4) of the Act including the auction notice dated 29.08.2022 (Annexure P-12). The outstandings are stated to be Rs.1,36,30,402.38/- as on 30.09.2021 and the mortgaged property is hypothecation of stock and book debts and property situated in New Sabzi Mandi, Kapurthala including Plot No.15 (Shop-cum-Flat) owned by Sham Sunder Aggarwal.

3. Similarly, in CWP-22439-2022 filed by M/s. P K and Co. and

another, in which the proprietor is Shyam Sunder Aggarwal also and his son

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Anish Aggarwal (petitioners in CWP No. 22630-2022), challenge is to the demand notice dated 17.05.2021 (Annexure P-2) and the possession notice dated 18.08.2022 (Annexure P-9) as well as the auction notice dated 29.08.2022. The outstandings are stated to be Rs.60,16,486.02/- and the equitable mortgaged property is H.No.27, Gopal Park, Kapurthala measuring 14 marlas.

3. CWP-22457-2022 has been filed by Shyam Sunder Aggarwal challenging notice issued under Section 13(2) dated 24.05.2021 (Annexure P-3), possession notice dated 18.08.2022 (Annexure P-9) and the auction notice dated 29.08.2022 (Annexure P-10). A perusal of the Section 13(4) notice would go on to show that the outstandings was Rs.30,69,855.26/- and the equitable mortgaged property is Flat No.403 measuring 1915 sq. ft.

4. Counsel for the Bank submits that the auction which was slated for 30.09.2022 did not fructify for all the properties.

5. Resultantly, we are of the considered opinion that the present writ petitions have become infructuous and for that reason counsel has apparently also not been appearing for the last three dates i.e. 09.11.2022, 17.11.2022 and 15.12.2022 regarding the auction proceedings as such and are disposed of as such.

6. Regarding the challenge to the Section 13(4) notices, we are of the considered opinion that the petitioners have an alternative and efficacious remedy as such to approach the Tribunal under Section 17 of the Act against the notice dated 28.10.2022 issued under Section 13(4) of the Act, which has been time and again laid down by the Apex Court and recently reiterated in

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Naveen Mathew Philip and another decided on 17.04.2023 wherein, it has been held that only in exceptional cases, the resort as such is to be taken to Articles 226 and 227 of the Constitution of India in financial matters.

7. Accordingly, the petitions stand dismissed and we leave it open to the petitioners to avail their alternative remedy by approaching the Tribunal in accordance with law.

(G.S. SANDHAWALIA)
JUDGE

08.05.2023
shivani

(GURBIR SINGH)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No