

2023:PHHC:108454-DB

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

CWP-23792-2022

Date of Decision: August 18, 2023

M/s Jasbir Singh and Brothers and another Petitioners

Versus

State Bank of India and another Respondents

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

Present: Mr. Rupam K. Aggarwal, Advocate for the petitioners.

Mr. Rakshit Gupta, Advocate for the respondents.

LISA GILL, J.

1. Prayer in this writ petition is for setting aside proceedings under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short – ‘SARFAESI Act’) initiated by the respondent – Bank against them, including notices under Sections 13(2) and 13(4) of SARFAESI Act as well as order dated 22.07.2022 passed by the learned District Magistrate, Kurukshetra under Section 14 of SARFAESI Act besides subsequent notice dated 03.10.2022 issued by the Duty Magistrate-cum-Tehsildar, Gurdaspur. There is further prayer for directing the respondent – Bank to reconsider the proposal for One Time Settlement submitted by the petitioners.

2. Learned counsel for the respondent – Bank while referring to the written statement filed on behalf of said respondent submits that there is mis-statement of material facts in the writ petition. Secured asset i.e. shop No. 133, New Grain Market, Kurukshetra owned by petitioner No. 2 is mortgaged in two accounts i.e. one of M/s Ranjit Singh Tej Pal and Brothers in which Ranjit Singh is the sole proprietor as well as in the account of M/s Jasbir Singh and Brothers (petitioner No. 1 in this case) wherein Jasbir Singh is the sole proprietor. Due to default in both the accounts, they were declared NPA on 28.05.2021.

3. Proceedings under SARFAESI Act were initiated separately qua both the accounts. Two SAs were filed challenging the said proceedings. SA No. 118/2022 was filed in respect to account of M/s Ranjit Singh Tej Pal and Brothers. Said SA was dismissed by learned Debt Recovery Tribunal-II (DRT), Chandigarh. CWP-22927-2022 filed for setting aside said order dated 26.09.2022 of the DRT was disposed of on 30.09.2022 by this High Court while relegating M/s Ranjit Singh Tejpall and Brothers alongwith petitioner No. 2 in the present writ petition (who is the guarantor in both the accounts) to the remedy of filing an appeal under Section 18 of the SARFAESI Act.

4. SA No. 119/2022 filed by the present petitioners was allowed by learned DRT vide order dated 26.09.2022 (Annexure P2) on the ground that notice under Section 13(2) of the SARFAESI Act was invalid, accordingly, notice under Sections 13(2) and 13(4) of SARFAESI Act were set aside while observing that respondent – Bank would not be precluded from initiating proceedings under the SARFAESI Act afresh.

5. Impugned notice dated 03.10.2022 (Annexure P3) was issued by the Tehsildar for implementation of orders under Section 14 of SARFAESI Act passed in the case of M/s Ranjit Singh Tej Pal and Brothers. As noted in the foregoing paras, property mortgaged in both the accounts is the same. Learned counsel for the respondents submits that this material fact about implementation of order under Section 14 of SARFAESI Act being qua M/s Ranjit Singh Tej Pal and brothers has been sought to be cleverly concealed in this writ petition. It is submitted that no coercive action is being taken against the petitioners at this stage who are merely espousing the cause of M/s Ranjit Singh Tej Pal and Brothers whereas CWP-22927-2022 filed by the said Firm as well as present petitioner No. 2, stands dismissed. Insofar as the proposal for OTS is concerned, borrower had made an offer of only Rs.40 lakhs qua the dues of Rs.74 lakhs as pending at that time. Same was, accordingly, declined by the Bank, as communicated vide letter dated 13.10.2022. It is further submitted by learned counsel for the respondent that in any case as and when steps are taken by the respondent – Bank qua petitioner No. 1, the petitioners have an efficacious remedy for redressal of their grievance, if any, under the SARFAESI Act . Present writ petition, it is, thus, prayed should be dismissed.

6. Learned counsel for the petitioners is unable to deny that proceedings, as challenged in the present writ petition, pertain to Firm - M/s Ranjit Singh Tej Pal and Brothers in respect to which, the said Firm and petitioner No.2 have already availed their remedies.

7. Present writ petition being devoid of any merit is, accordingly, dismissed without any order as to cost.

8. It is clarified that in case of any grievance, which the petitioners may have in respect to proceedings under the SARFAESI Act, if any, initiated by the respondent – Bank in respect to the account of petitioner No.1, they are at liberty to avail the remedy/remedies available to them under the said Act.

(LISA GILL)
JUDGE

August 18, 2023

rts

(RITU TAGORE)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No