

BALVINDER SINGH

..... Petitioner

Versus

RESERVE BANK OF INDIA AND OTHERS

..... Respondents

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

Present: Mr. Arvind Seth, Advocate for the petitioner.

None for respondent No. 1.

Mr. Deepak Grewal, DAG, Haryana.

Mr. Sandeep Suri, Advocate and
Mr. Raghav Garg, Advocate for respondent No. 5.

LISA GILL, J.

1. Prayer in this petition is for setting aside order dated 02.09.2022 (Annexure P6) under Section 14 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short – ‘SARFAESI Act’) passed by respondent No. 3 as well as auction/sale notice dated 18.10.2022 (Annexure P8). Action of respondents in taking over possession of residential property of the petitioner, pursuant to order dated 02.09.2022 has also been challenged besides seeking a direction to respondent No. 5 to settle the dispute by entering into One Time Settlement with the petitioner.

2. Notice of motion was issued in this writ petition by co-ordinate Bench on 14.11.2022. Thereafter on 23.11.2022, it was directed

that subject to the petitioner depositing a sum of ₹7 lakhs, possession of the

secured asset be restored to the petitioner pending further orders. Auction of the secured asset was also stayed while directing that in default of deposit as above, interim order would stand vacated. Possession of the secured asset was restored on deposit as above.

3. Heard.

4. Learned counsel for the petitioner when faced with the question of entertainability of this writ petition in the wake of judgments by Hon'ble the 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** as well as **Phoenix ARC Private Limited versus Vishwa Bharti Vidya Mandir and others, 2022 (1) RCR (Civil) 888**, seeks to withdraw this writ petition with liberty to the petitioner to avail efficacious statutory remedy available to him in accordance with law. It is, however, submitted that petitioner's possession over the secured asset be protected till he approaches the learned DRT in this regard.

5. Keeping in view the facts and circumstances as above, this writ petition is dismissed as withdrawn with liberty to the petitioner to avail efficacious statutory remedy available to him in accordance with law.

6. Furthermore, keeping in view the fact that this writ petition is pending before this Court since November, 2022 with an interim order in favour of the petitioner, it is directed that petitioner's possession be protected for the next ten (10) working days to enable him to avail the

remedy as may be available to him. In case, petitioner files appropriate application/ petition, question of continuance or otherwise of interim order in petitioner's favour shall be considered by the appropriate Forum in accordance with law, without being influenced by any order, which may have been passed in this writ petition.

7. It is clarified that interim protection afforded to the petitioner shall automatically stand vacated in the absence of any order by the appropriate authority.

8. It is clarified that there is no expression of opinion on the merits of the matter.

9. Draft of ₹10 lakhs attached as Annexure A1 with CM-16363-CWP-2023 be returned to the petitioner on furnishing adequate proof of identity.

10. Pending application(s), if any, stand(s) disposed of.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

October 03, 2023

rts

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