

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(103)

CM-6969-CWP-2023 in/and
CWP-26142-2022
Decided on :28.04.2023

Taro Devi @ Taravati (since deceased) through her legal representative and others

.....Petitioner(s)

Versus

Punjab & Sind Bank and others

.....Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN

Present: None for the applicant/petitioner (s).

Mr. Gaurav Goel, Advocate for the respondent-Bank.

G.S. Sandhawalia, J. (Oral)

CM-6969-CWP-2023

Application has been filed for extension of time to comply with the order dated 16.11.2022 (Annexure P-6).

2. Case has been called twice, but none has appeared on behalf of the petitioners. Earlier order dated 16.11.2022 reads as under:-

“Notice of motion for 14.03.2023.

Mr. Gaurav Goel, Advocate, accepts notice on behalf of the respondents.

Subject to the petitioners paying Rs.4,95,000/- to the respondents within four weeks and continuing to pay future installments as and when they fall due, no coercive action shall be taken against the petitioners by the respondents. In default of compliance with this order, this order shall stand vacated.”

3. In the application it has been averred that the petitioners will deposit an amount of ₹2 lakhs before 30.04.2023 and the remaining amount would be deposited in two equal installments in the two next months.

4. The order dated 16.11.2022 was self speaking and the protection stands withdrawn and, therefore, we are of the considered opinion that the writ petition itself has been rendered infructuous. Resultantly the present application is dismissed. Accordingly, we prepone the hearing in the main case from 14.07.2023 to today itself. Main case is taken up on board.

5. CM stands disposed of.

CWP-26142-2022

Challenge in the present writ petition filed under Articles 226/227 of the Constitution of India is to the securitization proceedings and to the notice issued under Section 13 (2) 28.09.2018 (Annexure P-1) and 13 (4) dated 28.12.2018 (Annexure P-4) of the Securitization and Re-construction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. A perusal of possession notice (Annexure P-4) would go on to show that there are outstandings of ₹12,96,014.09 as on 31.08.2018. The Apex Court in **SLP (Civil) Nos.22021-22022 of 2022** titled **M/s South Indian Bank Ltd. & others Vs. Naveen Mathew Philip & another**, decided on 17.04.2023 has held that only in exceptional circumstances the Writ Court would exercise its jurisdiction, which apparently do not exist in the present case. Once symbolic possession has been taken under Section 13(4) of the Act, the remedy would thus lie under Section 17 of the Act before the Tribunal.

3. The present writ petition is, accordingly, dismissed. Liberty is given to the petitioners to approach the Tribunal under Section 17 of the Act.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

28.04.2023
Naveen

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No