

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

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CWP-28357-2022

Date of Decision: 31.08.2023

GURPREET SINGH AND ORS**... Petitioners****VERSUS****AUTHORIZED OFFICER IDFC
FIRST BANK LTD****....Respondent**

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

Present: Mr. Parunjit Singh, Advocate
for the petitioners.

Mr. Aditya Grover, Advocate for
Mr. Naveen Sihag, Advocate
for the respondent.

LISA GILL, J.(Oral)

1. Prayer in this writ petition is for quashing notice dated 24.12.2021 (Annexure P-4) issued under Section 13 (2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act), 2002 as well as notice under Section 13 (4) of SARFAESI Act (Annexure P-5).

2. Notice of motion was issued in this writ petition by Co-ordinate Bench on 09.12.2022 while directing that subject to the petitioners depositing a sum of Rs.55,302/- in the home loan account and Rs.1,74,686/- in the LAP Suvidha account within two weeks and continuing to pay the future installments as and when they fall due, no coercive action would be taken against them.

3. Learned counsel for the respondent points out that after

deposit of the amount as above in home loan account and the LAP Suvidha account, the petitioners have not deposited any of the installments as they fall due thereafter. This is not refuted by learned counsel for the petitioners who submits that this default is due to unavoidable circumstances and exigencies faced by the petitioners.

4. Be that as it may, it is undeniable that petitioners have an efficacious remedy under the SARFAESI Act for challenging the proceedings as detailed in the foregoing paras. It has been held by Hon'ble Supreme Court in Union Bank of India v. Satyawati Tandon and others, 2010(8) SCC 110 and South Indian Bank Ltd. and others v. Naveen Mathew Philip and another, 2023(2) RCR (Civil) 771. Hon'ble the Supreme Court in the case of M/s South Indian Bank (supra) while reiterating its earlier judgments held that where an alternate efficacious remedy is available to the litigant before a Forum constituted under a statute, interference by the High Court in exercise of jurisdiction under Article 226 of Constitution of India should be restricted to exceptional cases It was held that :-

“15. The object and reasons behind the Act 54 of 2002 are very clear as observed by this Court in Mardia Chemicals Ltd. v. Union of India, (2004) 4 SCC 311. While it facilitates a faster and smoother mode of recovery sans any interference from the Court, it does provide a fair mechanism in the form of the Tribunal being manned by a legally trained mind. The Tribunal is clothed with a wide range of powers to set aside an illegal order, and thereafter, grant consequential reliefs, including re-possession and payment of compensation and costs. Section 17(1) of the SARFAESI Act gives an expansive

meaning to the expression "any person", who could approach the Tribunal.

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18. While doing so, we are conscious of the fact that the powers conferred under Article 226 of the Constitution of India are rather wide but are required to be exercised only in extraordinary circumstances in matters pertaining to proceedings and adjudicatory scheme qua a statute, more so in commercial matters involving a lender and a borrower, when the legislature has provided for a specific mechanism for appropriate redressal.”

5. Learned counsel for the petitioners submits that petitioner No.2 faced a serious medical condition due to which payments could not be made. However, he is unable to point out any exceptional or extraordinary circumstance which calls for interference by this Court. Pleas as raised before us are very well within the realm of consideration by the learned Tribunal.

6. Keeping in view the facts and circumstances of the matter, this writ petition is dismissed with liberty to the petitioners to avail the remedies as available to them in accordance with law.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

31.08.2023
Rimpal

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