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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

2023:PHHC:065131-DB

CM-7864-CWP-2023 in/and

CWP-1000-2020

Date of Decision: May 04, 2023

M/S SHARMA CONSTRUCTION

....Applicant-Petitioner(s)

VERSUS

DISTRICT MAGISTRATE, PALWAL & OTHERS

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA

HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Akshit Mehta, Advocate for  
Mr. Johan Kumar, Advocate  
for the petitioner (s).

Mr. Arun Beniwal, DAG, Haryana.

Mr. Lohit Kumar Bimal, Advocate with  
Mr. Raghav Bimal, Advocate &  
Mr. Sunit Jain, Advocate  
for respondent Nos.3 and 4.

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**G.S. SANDHAWALIA, J.(ORAL)**

1. Present petition challenges the securitisation proceedings wherein the bank was seeking to recover a sum of ₹ 25,77,252.00/- as per Section 13(2) notice dated 02.08.2018 (Annexure P-1) issued under the Securitisation and Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 (hereinafter referred as 'the Act'). Thereafter also, an order under Section 14 of the Act was passed by the District Magistrate, Palwal on 25.11.2019 (Annexure P-2).

2. As per the pleadings itself, the petitioner has filed a SA No. 302 of 2019 before the DRT which was listed for hearing on 27.12.2019. The pleadings are that the Presiding Officer had retired. This Court had granted the benefit of

stay on 15.01.2020 against the impugned order. In a reply filed by the bank, it has been mentioned that the petitioner was classified as an NPA on 31.12.2018.

3. In such circumstances, we are of the considered opinion that the writ Court jurisdiction has been exercised only for the purpose of ensuring that the petitioner has access to Justice and right to statutory remedy was not available. Since the DRT is now fully functional, we are of the considered opinion that the petitioner is at liberty to pursue his remedy before the Tribunal by reviving the proceedings, in case, not already pending.

4. Accordingly, present petition is disposed of with aforesaid liberty. The interim protection which had been granted is extended for a period of four weeks to do the needful. It is up to the Tribunal as such to put the petitioner to terms for extension of the stay.

(G.S. SANDHAWALIA)  
JUDGE

(HARPREET KAUR JEEWAN)  
JUDGE

04.05.2023  
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| <i>Whether speaking</i>   | <i>Yes/No</i> |
| <i>Whether reportable</i> | <i>Yes/No</i> |