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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-2767-2024
Date of Decision: 07.02.2024

Randeep Singh

..... Petitioner

Versus

Union Bank of India and another

..... Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present: Mr. Gaurav Tyagi, Advocate
for the petitioner.

Mr. Gaurav Goel, Advocate
for respondent-Bank.

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LISA GILL, J. (Oral)

1. Prayer in this writ petition is for setting aside sale notice dated 30.12.2023 (Annexure P-7) issued by respondent-Bank under the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act') read with Security Interest (Enforcement) Rules, 2002. There is further prayer for directing respondents not to take any coercive steps for taking physical possession and sale of property of petitioner.

2. It is submitted that financial credit was availed of by petitioner's son namely Davinder Singh. Sanction letter dated 27.07.2016 is attached as Annexure P-1 with this writ petition. Learned counsel for petitioner submits that 60% earnings of petitioner's son had to be given to the person on whose premises a lab was being run by his son. Officials from respondent's bank allured petitioner's son to take financial credit which was in fact taken by his son. As per sanction letter, moratorium period of 12 months was allowed and loan was also to be secured through an insurance policy. However, respondents started

deducting EMIs from account of petitioner's son who approached officials of bank in this regard. However, to the contrary petitioner's son was threatened and he ultimately committed suicide on 26.06.2017 in view of harassment and constant threats from officials of respondent-Bank. Account in question was declared Non Performing Asset (NPA) on 30.06.2018. Notice(s) under Section 13(2) and Section 13(4) of SARFAESI Act were issued by respondent-Bank on 20.07.2018 and 09.11.2023 respectively. Complaint dated 02.07.2018 was filed by petitioner under Sections 306, 452 and 506 of Indian Penal Code, 1860. Complaint has also been filed by petitioner before State Consumer Disputes Redressal Commission, Panchkula qua insurance policy in terms of sanction letter dated 27.07.2016. It also came to notice of petitioner that OA No. 1007 of 2019 filed by respondent-Bank was allowed *exparte* on 14.07.2023 for a sum of ₹52,77,846/- against petitioner. Notice dated 30.12.2023 has been issued for sale of immovable property through auction to be held on 14.02.2024 for recovery of ₹ 69,22,110.96. Learned counsel for petitioner argues that action taken by respondent-Bank is absolutely illegal and arbitrary in complete violation of provisions of law, therefore this writ petition should be allowed.

3. Learned counsel for respondent-Bank on advance notice has opposed this writ petition while firstly raising preliminary objection qua its entertainability. Any illegality or irregularity in action taken by respondent-Bank against petitioner under provisions of SARFAESI Act is totally denied. Dismissal of writ petition is sought.

4. Heard learned counsel for parties and have gone through the file.

5. Availing of financial credit by petitioner's son who has unfortunately died and subsequent financial default with initiation of proceedings under SARFAESI Act by respondent-Bank is a matter of record. Learned counsel for petitioner is however unable to point out any extra-ordinary or exceptional

circumstance which calls for interference by this Court at this stage in exercise of jurisdiction under Article 226 of Constitution of India. Gainful reference in respect to minimal intervention by High Courts in such like matters can be made to judgment of the Hon'ble Supreme Court in **Union Bank of India v. Satyawati Tandon and others, 2010(8) SCC 110, M/s South Indian bank Ltd. and others v. Naveen Mathew Philip and another, 2023(2) RCR (Civil) 771** and **Varimadugu Obi Reddy v. B. Sreenivasulu and others, 2023(1) R.C.R.(Civil) 34.** All pleas raised before us are very well within the realm of consideration by appropriate forum duly provided under SARFAESI Act itself.

6. Keeping in view the facts and circumstances, this writ petition is dismissed with liberty to petitioner to avail remedy(ies) available to him in accordance with law.

7. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

(LISA GILL)
JUDGE

07.02.2024 **(AMARJOT BHATTI)**
lalit **JUDGE**

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