

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-2769-2024
Date of Decision: April 29, 2024

M/S SURAJ CATTLE FEED

..... Petitioner

Versus

STATE BANK OF INDIA AND OTHER

..... Respondents

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

Present: Mr. Naveen Kumar, Advocate for
Mr. Imran Farooqi, Advocate for the petitioner.

Mr. Gaurav Goel, Advocate for respondent No. 1 (through VC).

LISA GILL, J.

1. This writ petition has been filed challenging order dated 07.11.2023 (Annexure P3) under Section 14 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short – ‘SARFAESI Act’) passed by learned Additional District Magistrate, Malerkotla.

2. Learned counsel for petitioner submits that proceedings under SARFAESI Act initiated against petitioner are absolutely illegally, arbitrary and in complete violation of applicable provisions of law. Moreover, petitioner has also submitted representation/proposal dated 12.12.2023 (Annexure P4) before respondent – Bank seeking settlement. Petitioner has requested respondent – bank to revoke excessive charges and penalties imposed. It is submitted that before his proposal/representation is decided, no action should be taken under SARFAESI Act. It is, thus, prayed that this petition be allowed.

3. Heard learned counsel for parties and have perused the file. However, we do not find any ground whatsoever to interfere in this writ petition in exercise of jurisdiction under Article 226 of Constitution of India. This is so for the reason that SARFAESI Act is a complete code in itself providing for specific remedies for any grievances which may arise in respect to proceedings taken thereunder. Reference in this regard can be made to judgments of 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**. Hon'ble the Supreme Court in the case of **M/s South Indian Bank** (supra) held as under:-

“13. We may, however, reiterate the settled position of law on the interference of the High Court invoking Article 226 of the Constitution of India in commercial matters, where an effective and efficacious alternative forum has been constituted through a statute.

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14. A writ of certiorari is to be issued over a decision when the Court finds that the process does not conform to the law or statute. In other words, courts are not expected to substitute themselves with the decision-making authority while finding fault with the process along with the reasons assigned. Such a writ is not expected to be issued to remedy all violations.

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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 or 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.”

4. Learned counsel for petitioner is unable to point out any extraordinary and exceptional circumstance which calls for interference by this Court. All arguments, as raised in the writ petition, are very well within the realm of consideration by learned Tribunal.

5. Argument raised by learned counsel for petitioner that proceedings under SARFAESI Act should be kept in abeyance till decision upon petitioner’s request for settlement, is devoid of merit because it is always open to parties to arrive at any mutually acceptable settlement. Pendency or otherwise of writ petition, in any case, would be irrelevant for said purpose.

6. Keeping in view the facts and circumstances as above, this writ petition is dismissed with liberty to petitioner to avail statutory remedy(ies) as may be available to it in accordance with law. It is always open to parties to arrive at any mutually acceptable settlement.

7. There is no expression of opinion on the merits of matter.

(LISA GILL)
JUDGE

(AMARJOT BHATTI)
JUDGE

April 29, 2024

rts

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