

109 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-3104-2024

Date of Decision: May 02, 2024

SAROJ BALA

..... Petitioner

Versus

PIRAMAL CAPITAL AND HOUSING FINANCE LTD AND ANR.

..... Respondents

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

Present: Mr. Rajesh Tushar, Advocate for the petitioner.

Mr. Nitin Grover, Advocate for the respondents (through VC).

LISA GILL, J.

1. Prayer in this writ petition is for setting aside order dated 05.12.2023 (Annexure P6) passed by learned Chief Judicial Magistrate, Chandigarh under Section 14 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short – ‘SARFAESI Act’) and notice dated 25.01.2014 (Annexure P7) seeking possession of property in question.

2. Availing of financial credit by petitioner from Dewan Housing Finance Corporation Ltd., which was thereafter taken over by respondent – Piramal Capital and Housing Finance Ltd., on 30.10.2015 is a matter of record as is financial indiscipline on her part, for reasons as may be.

3. Learned counsel for petitioner argues that apart from the fact that proceedings under SARFAESI Act are illegal and arbitrary, petitioner was ready and willing to settle the matter with respondent – Finance Company but

respondent – Finance Company was not ready on any terms and is only interested in taking over property in question.

4. Learned counsel for respondents stated that this writ petition itself is not entertainable in view of judgment of Hon'ble the Supreme Court in **Phoenix ARC Private Limited versus Vishwa Bharti Vidya Mandir and others, 2022 (1) RCR (Civil) 888**, but in case, concrete proposal is submitted by petitioner within next two working days, same shall be considered in accordance with applicable Rules and Regulations and decided within next one week thereafter (it has been submitted by learned counsel for respondents that proposal/representation submitted by petitioner did not mention any details of proposed amount etc.).

5. Learned counsel for the petitioner, on instructions from petitioner present in Court, submits that requisite proposal shall be submitted within next two working days.

6. In the given factual matrix, it is apparent that writ petition is not entertainable for seeking relief qua respondent which is a private Non-Banking Housing Finance Company. Petitioner has specific remedies as provided under SARFAESI Act in respect to any grievance which petitioner may have qua proceedings under SARFAESI Act. Petitioner is always at liberty to avail the same in accordance with law. We are sanguine that petitioner's representation/proposal as may be submitted within next two working days shall be decided in terms of statement made before us.

7. Writ petition is disposed of accordingly.

(LISA GILL)
JUDGE

(AMARJOT BHATTI)
JUDGE

May 02, 2024

rts

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No