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

**CWP-6239-2021**
Date of Decision:- 11.03.2024

**Usha Devi**

....Petitioner

Vs.

**Deputy Commissioner-cum-District Magistrate, Palwal and Ors.**

...Respondents

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

Present:- Mr. Gaurav Singla, Advocate for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

Mr. Anurag Jain, Advocate for respondent No.4-Bank.

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**LISA GILL, J.**

1. Prayer in this writ petition is for quashing notice(s) dated 04.09.2018 (Annexure P-1), under Section 13(2), 08.03.2019 (Annexure P-2) and 08.03.2021 (Annexure P-4) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the SARFAESI Act).

2. Petitioner admittedly availed of home loan facility from respondent-Bank for construction purpose on 27.03.2015 for a sum of Rs.6 lakhs to be repaid in 240 installments. Equitable mortgage of the property as detailed in the writ petition was created. Admittedly, there was financial indiscipline on the part of petitioner leading to initiation of proceedings under the SARFAESI Act by respondent-Bank.

3. Learned counsel for petitioner submits that in fact installments were being paid regularly by petitioner but in the year 2017, petitioner was unable to deposit the same due to financial crisis faced by her.

4. Notice(s) under Section 13(2) and 13(4) of SARFAESI Act were issued by the respondent-Bank after declaration of petitioner's account Non Performing Asset (NPA) which is submitted to be absolutely illegal and arbitrary and *de hors* the specific provisions of law. Petitioner it is further stated was always ready and willing to settle the account but respondent-Bank was not agreeable for the same. It is thus prayed that this writ petition may be allowed.

5. Learned counsel for respondent-Bank opposed this writ petition while firstly raising an objection regarding entertainability of this writ petition itself. It is further submitted that entire action taken against petitioner under the SARFAESI Act is in strict consonance with provisions thereunder. Learned counsel for respondent-Bank further submits that petitioner has been a persistent and consistent defaulter being absolutely irregular and erratic in deposit of the amount due. Despite opportunity granted to petitioner for settling the account, she has not come forward. Learned counsel for respondent-Bank submits that offers to settle her account by way of One Time Settlement (OTS) were given even way back in November, 2022. Offer was sent through registered post which was refused to be accepted by petitioner. Same offer was however communicated to petitioner by hand which was duly received by petitioner under her signatures on 6th December, 2022. Petitioner did not come forward to settle the matter despite offering to remain present at the office

of respondent-Bank at Palwal on 11.01.2024 as is recorded in order dated 09.01.2024 passed in this writ petition. To the contrary officials of the Bank have been making offers for settlement. The only object it is submitted, is to delay recovery proceedings. It is thus prayed that this writ petition may be dismissed.

6. Heard learned counsel for parties.

7. Availing of financial credit by petitioner from respondent No.4 subsequent financial indiscipline and initiation of proceedings under the SARFAESI Act is a matter of record. It is a settled position that SARFAESI Act is a complete Code in itself. Specific remedies under the Act are available to the petitioners for grievances as have been raised in this writ petition. All such pleas and arguments are well within the realm of consideration by the appropriate Forum provided under the Act. Hon'ble the Supreme Court in a number of cases has held that interference by this Court in exercise of the jurisdiction under Article 226 of the Constitution of India has to be minimal and in exceptional and extraordinary circumstances. Gainful reference in this respect can be made to judgments of Hon'ble the Supreme Court in **Union Bank of India vs. Satyawati Tandon and others, 2010 (8) SCC 110,** and **M/s South Indian Bank Ltd. and others vs. Naveen Mathew Philip and others, 2023 (2) R.C.R. (Civil) 771.**

8. Learned counsel for petitioner is unable to point out any extraordinary or exceptional circumstance which calls for interference at this stage.

9. Keeping in view facts and circumstances above, this writ

petition is dismissed with liberty to petitioner to avail statutory remedy(ies) available to her in accordance with law.

10. Pending miscellaneous application(s), if any, stand disposed of accordingly.

**(LISA GILL)**
**JUDGE**

**(AMARJOT BHATTI)**
**JUDGE**

**11.03.2024**
*sunil devi*

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