

2024:PHHC:031051-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 5256 of 2024 (O&M)
Date of Decision:05.03.2024

Balwinder Singh

.....Petitioner

Versus

Yes Bank Limited and others

..... Respondents

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

Present: Mr. Abhishek Khullar, Advocate
for the petitioner.

LISA GILL, J(Oral).

1. Prayer in this writ petition is for quashing order dated 07.02.2024, Annexure P-3, passed by learned Debt Recovery Tribunal-III, Chandigarh, whereby IA No. 124/2024 i.e., an application for stay filed by petitioner in his Securitization Application (SA) No. 20/2024, titled 'Balwinder Singh Vs. Yes Bank Limited' and others' has been dismissed.
2. Learned counsel for petitioner is unable to deny that petitioner has an efficacious remedy for redressal of his grievance/ies as raised in this writ petition. Remedy of appeal in terms of Section 18 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act') is available to him. SARFAESI Act is a complete Code in itself providing for remedies *qua* grievance, if any, in respect to proceedings initiated thereunder. Interference by this Court in exercise of jurisdiction under Article 226 of the Constitution of India is not called for at this stage. It has been held by the Hon'ble Supreme Court in

Varimadugu Obi Reddy v. B. Sreenivasulu and others, 2023(1)

R.C.R.(Civil) 34, as under:-

“34. In the instant case, although the respondent borrowers initially approached the Debts Recovery Tribunal by filing an application under Section 17 of the SARFAESI Act, 2002, but the order of the Tribunal indeed was appealable under Section 18 of the Act subject to the compliance of condition of predeposit and without exhausting the statutory remedy of appeal, the respondent borrowers approached the High Court by filing the writ application under Article 226 of the Constitution. We deprecate such practice of entertaining the writ application by the High Court in exercise of jurisdiction under Article 226 of the Constitution without exhausting the alternative statutory remedy available under the law. This circuitous route appears to have been adopted to avoid the condition of pre-deposit contemplated under 2nd proviso to Section 18 of the Act 2002.”

3. Learned counsel for the petitioner is unable to point out any exceptional or extraordinary circumstance, which calls for interference by this Court.

4. Keeping in view the facts and circumstances as above, this writ petition is dismissed with liberty to petitioner to avail statutory remedy(ies) available to him in accordance with law. There is no expression of opinion on the merits of the matter. Pending application(s), if any, stand(s) disposed of accordingly.

(LISA GILL)
JUDGE

(AMARJOT BHATTI)
JUDGE

March 05, 2024.

s.khan

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