IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

239

CWP-9232-2022
Date of decision: 20.02.2024

Komal Gera and Anr.

..... Petitioners

V/S

Bank of Baroda and Anr.

..... Respondents

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

Present: Mr. H.S.Jagdev, Advocate for petitioners.

Mr. C.S.Pasricha, Advocate
for respondent-Bank (through V.C.).

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LISA GILL, J.(Oral)

1. Prayer in this writ petition is for quashing notice(s) dated 27.04.2021 (Annexure P-2 and Annexure P-3) under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act), 2002 Act, notice dated 31.01.2022 (Annexure P-4) issued under Section 13(4) and subsequent sale notice dated 09.03.2022 (Annexure P-10) under SARFAESI Act.

2. Learned counsel for petitioners *inter alia* asserts non-compliance of Rule 9 (1) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Rules and submits that for recovery of about Rs.17,34,745.10/- two properties, one having value of Rs.18 lakhs and another of Rs.23.10 lakhs have been put to sale which is impermissible. It is submitted that there is complete violation of applicable rules by respondents while undertaking proceedings under SARFAESI Act against petitioners. It is thus prayed that this writ petition be allowed.

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2024.02.28 18:47
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3. Learned counsel for respondent-Bank while raising preliminary objection qua entertainability of this writ petition submits that entire action under SARFAESI Act is complete consonance with provisions thereunder.

4. Heard.

5. Learned counsel for petitioners is unable to deny 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.**

6. Keeping in view the above, this writ petition is dismissed with liberty to petitioners to avail remedy(ies) available to them in accordance with law for redressal of their grievance(s).

7. As interim order granted to petitioners on 04.05.2022 has continued till date, same shall enure for a period of fifteen (15) days from the date of receipt of certified copy of this order, in order to enable petitioners to avail appropriate remedy as may be available to them in accordance with law. In case appropriate application/petition is filed by petitioners accompanied with requisite application(s), question of

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continuance or otherwise of interim order in favour of petitioners be considered by appropriate forum in accordance with law without being influenced by any order(s), which may have been passed in this writ petition. It is clarified that interim order shall not enure after the period of aforesaid fifteen (15) days in the absence of appropriate order by competent authority/Tribunal in accordance with law. There is no expression of opinion on merits of the matter.

8. Pending application(s), if any, stand(s) disposed of.

(LISA GILL)
JUDGE

(AMARJOT BHATTI)
JUDGE

20.02.2024
Sunil Devi

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No

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