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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10578-2024
Date of Decision: 07.05.2024

Rajesh Bhandari

..... Petitioner

Versus

AU Small Finance Bank Ltd.

..... Respondent

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

Present: Mr. S.K. Tripathi, Advocate
for the petitioner.

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LISA GILL, J.(oral)

1. Prayer in this writ petition is for quashing impugned notice dated 06.03.2024 (Annexure P-3) issued by respondent-Bank under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act'). There is further prayer for directing respondent-Bank to decide representation submitted by petitioner and allow him to repay loan amount installments. Staying of operation of impugned notice dated 06.03.2024 is also sought.

2. This writ petition has been filed by petitioner straight away after receipt of notice dated 06.03.2024 under Section 13(2) of SARFAESI Act without even filing objections in terms of Section 13(3A) SARFAESI Act. Petitioner is at liberty to file objections under Section 13(3A) SARFAESI Act while taking all pleas as are available to him and in case notice under Section 13(4) of SARFAESI Act is issued by the Bank, petitioner is provided remedy(ies) under SARFAESI Act. Interference by this Court at this stage has to be minimal and actuated only in exceptional or extraordinary circumstances. Gainful reference in this respect can be made to the judgments of Hob'ble the Supreme Court of India in **Union Bank of India v. Satyawati Tandon and**

others, ***2010(8) SCC 110***, **M/s South Indian Bank Ltd. and others v. Naveen Mathew Philip and another**, ***2023(2) RCR (Civil) 771*** and **Varimadugu Obi Reddy v. B. Sreenivasulu and others, 2023(1) R.C.R.(Civil) 34.** It has been held by Hon'ble the Supreme Court of India in a number of decisions that after issuance of notice under Section 13(2) of SARFAESI Act, it is open to the borrower/guarantor to file objections and it is only after any action is taken under Section 13(4) of SARFAESI Act that it is permissible to approach learned Debts Recovery Tribunal. Thus, what is specifically barred by the Act, cannot be permitted in this oblique manner.

3. Availing of financial facility by petitioner and subsequent financial indiscipline on his part for reasons as may be, is a matter of record. Learned counsel for petitioner is unable to point out any exceptional or extraordinary circumstance which calls for interference by this Court at this stage.

4. Keeping in view the above, this writ petition is dismissed with liberty to petitioner to avail statutory remedy(ies) available to him in accordance with law at the appropriate time.

5. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

(LISA GILL)
JUDGE

(AMARJOT BHATTI)
JUDGE

07.05.2024
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No