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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-20008-CWP-2023 in/and
CWP-16962-2022

Date of Decision: 26.02.2024

Shiv Motors and others

..... Petitioners

Versus

IDFC First Bank Limited and others

..... Respondents

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

Present: Mr. M.S. Jandiala, Advocate
for the petitioners.

Mr. Aditya Grover, Advocate
for respondent-Bank.

LISA GILL, J.(oral)

1. Prayer in this writ petition is for quashing demand notice dated 06.07.2021 (Annexure P-1) issued by respondent No. 2 under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act') and possession notice dated 06.01.2022 (Annexure P-2) issued by respondent No. 1 under Section 13(4) of SARFAESI Act. There is further prayer for restraining respondents not to pass any order on petition/application (Annexure P-12) filed before Additional District Magistrate, Ludhiana by respondent No. 1.

2. Learned counsel for parties refer to order dated 08.09.2022 passed in this writ petition by Coordinate Bench, wherein it is directed that possession of property in question wherein residential premises of

petitioners are located will not be taken. It is brought to our notice that respondent-bank for recovery of dues of ₹2,30,00,000/- was directed to sell other property. Same has been sold for a sum of ₹1,50,24,000/-. Rest of the amount is still due.

3. Learned counsel for petitioners being conscious of decision of Hon'ble the Supreme Court 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 Phoenix ARC Private Limited vs. Vishwa Bharti Vidya Mandir and others, 2022 (1) RCR (Civil) 888, submits that petitioners may be permitted to withdraw this writ petition with liberty to avail remedy(ies) available to them in accordance with law. It is further submitted that interim order in their favour be continued till decision of matter by appropriate authority.

4. Keeping in view the facts and circumstances of the matter, this writ petition is dismissed as withdrawn with liberty to petitioners to avail the statutory remedy(ies) available to them in accordance with law. Necessary steps would be taken for approaching appropriate authority/Tribunal within next 15 days.

5. Keeping in view the fact that interim order passed in favour of petitioners on 08.09.2022 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 in accordance with law. In case, petitioners file appropriate application/petition accompanied with requisite application(s), question of

continuance or otherwise of interim order in petitioners' favour is necessarily in the realm of consideration by the appropriate Forum in accordance with law, without being influenced by any order, which may have been passed in this writ petition.

6. It is clarified that interim protection afforded to petitioners shall not enure beyond 15 days as above in the absence of appropriate order by competent authority/Tribunal in accordance with law.

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

(LISA GILL)
JUDGE

(AMARJOT BHATTI)
JUDGE

26.02.2024
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No