115 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-11951-2024
Date of Decision: May 27, 2024

JAMNA DEVI ..... Petitioner

Versus

STATE BANK OF INDIA AND OTHERS ..... Respondents

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

Present: Mr. S.S. Sahu, Advocate for the petitioner.

Mr. Gaurav Goel, Advocate for respondent – Bank.

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LISA GILL, J.

1. Prayer in this writ petition is for setting aside proceedings under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short – 'SARFAESI Act') initiated against petitioner.

2. Learned counsel for petitioner submits that petitioner's husband namely Tara Chand obtained home loan for a sum of Rs.5 lakhs on 21.07.2017. Loan was to be re-paid in 240 monthly installments. Insurance cover thereof was taken and loan taken by petitioner's husband was covered under Scheme of 'SBI Life - RiNn Raksha Series'. Amount in question was deposited regularly by petitioner's husband who unfortunately passed away on 15.01.2021. As the insurance cover had been obtained, petitioner intimated about death of her husband to the insurance company and asked respondent – bank to recover the amount from insurance company. However, respondent – bank in an illegal manner classified the account as Non Performing Asset on 26.10.2023. Notices under Section 13(2) and 13(4) of SARFAESI Act were issued on 15.12.2023 and 07.03.2024, respectively. Objections pursuant to issuance of notice dated 15.12.2023 under Section 13(2) of SARFAESI Act were not filed. However, it

is stated that legal notice dated 13.03.2024 was issued to respondent – Bank as well as insurance company. It is, thus, prayed that this writ petition be allowed.

3. Learned counsel for respondent – Bank (on advance notice) submits that present writ petition is not entertainable in view of efficacious remedy available to the petitioner under SARFAESI Act itself in terms of Section 17 thereof. It is further pointed out that as per information received by him, premium amount for insurance was deposited only once i.e. in 2017 whereas premium was to be deposited for five years as per policy. However, legal notice dated 13.03.2024, it is submitted, shall be decided within next two weeks and decision communicated to the petitioner.

4. Keeping in view the facts and circumstances of the case, especially the factum of specific remedy available to petitioner under SARFAESI Act, we do not find any exceptional and extraordinary circumstance to interfere in the matter in exercise of jurisdiction under Article 226 of Constitution of India.

5. Writ petition is, accordingly, disposed of with liberty to petitioner to avail remedy(ies) as may be available to her in accordance with law.

6. There is no expression of opinion on the merits of matter.

(LISA GILL)
JUDGE

(AMARJOT BHATTI)
JUDGE

May 27, 2024
rts

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