

**CWP-12746-2024 and another connected petition****-1-****120 + 123****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of Decision: 27.05.2024****(1) CWP-12746-2024****Sybron Leasing & Finance Pvt. Ltd.****..... Petitioner****Versus****State of Haryana and others****..... Respondents****(2) CWP-12752-2024****ESS GEE Financing Company Pvt. Ltd.****..... Petitioner****Versus****State of Haryana and others****..... Respondents****CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE AMARJOT BHATTI****Present: Mr. Shubham Rana, Advocate
for the petitioner(s) (in both cases).****Mr. Gaurav Goyal, Advocate
for respondent-Bank (on advance notice in both cases).************LISA GILL, J.**

1. This order shall dispose of both writ petitions i.e. **CWP-12746-2024 and CWP-12752-2024** as the property/secured asset involved in both the writ petitions is the same.

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2. Petitioners in both the writ petitions are private non-banking financial companies and prayer in both the petitions is for setting aside the action of respondent-Punjab National Bank in proceeding to auction the land as detailed in the writ petition. It is the case of both the petitioners that respondent No. 4-proprietorship concern in both the writ petitions approached the petitioners for financial facility. In CWP-12746-2024, respondent No. 4 took short term business loans of Rs. 35 lakhs and Rs. 5 lakhs for a period of 12 months and respondents No. 5 to 8 stood guarantors of the loan. In CWP-12752-2024, financial credit in the terms of short term business loans of Rs. 32 lakhs and Rs. 8 lakhs for a period of 12 months was availed of by respondent No. 4 from the petitioner therein. Respondents No. 5 to 8 stood guarantors with plant and machinery being kept as security. It is stated that land property measuring 8 kanals as described in writ petitions was mortgaged with petitioners. In both the petitions, loan facility is stated to have been sanctioned on 21.05.2021. Entry in the revenue records (jamabandi) was carried out in favour of the respective petitioners on 25.05.2021. Respondent-Bank submitted application dated 30.08.2022 before Deputy Commissioner, Karnal seeking cancellation of entry No. 391 dated 25.05.2021 in favour of the petitioners. This request, it is submitted, is absolutely unjustified and illegal because the petitioners, it is claimed, have a right to protect their claim over the secured assets. The property i.e. industrial land and building belonging to respondents No. 5 to 8 has been put to auction by respondent-Punjab National Bank

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which is scheduled for 29.05.2024. Learned counsel for petitioners argues that this auction is absolutely illegal and arbitrary. Furthermore, even if the auction is to proceed, interests of the present petitioners should be protected in as much as they also have a charge upon the said property. It is submitted that petitioners had duly written to Deputy Commissioner on 19.05.2024 requesting for protection of interest of the petitioners in the property in question. It is thus prayed that both the writ petitions be allowed and auction scheduled to be held on 29.05.2024 be terminated.

3. Learned counsel for respondent-Bank is on advance notice. He opposes both the writ petitions.

4. We have heard learned counsel for the parties and have gone through the file with their assistance.

5. At the outset, it is to be noticed that writ petitions are in fact bereft of material particulars, in as much as there is a bald averment that petitioner came to know that auction of property was being conducted by the respondent-Bank under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act') without there being any detail whatsoever of said proceedings. We take note of the fact that an objection in this regard had been raised by the Registry as well but it was requested that writ petitions be put up as it is.

6. Be that as it may, even during the course of arguments, learned counsel for the petitioners was unable to provide any details

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thereof. It is further to be noted that charge of respondent-bank on the property in question was created on 21.06.2018 for a sum of Rs. 1 crore 10 lakhs and on 28.11.2019 for a sum of Rs. 2 crore 71 lakhs. On account of default by the borrowers, respondent-Bank is proceeding against them in terms of provisions of the SARFAESI Act. This detail has been provided by learned counsel for respondent-Bank who is on advance notice.

7. Argument raised on behalf of petitioners is that their interests need to be protected, therefore, the auction proceedings should not continue. Learned counsel for petitioners subsequently stated that even if the auction is to go on, interest of the petitioners should be protected in as much as the amount due to them should be released to them proportionately.

8. In the factual matrix, we do not find any ground whatsoever to interfere in this writ petition. Creation of interest in favour of the petitioners with the availing of some loan facility by the borrowers subsequently, by itself, cannot be a ground for putting a spanner in the auction scheduled for 29.05.2024. Moreover, it is a settled position that SARFAESI Act being a complete code in itself provides specific remedies to affected parties, in case of any grievance. Interference in exercise of jurisdiction under Article 226 of the Constitution of India has to be minimal and actuated only in exceptional or extraordinary circumstances. Learned counsel for the petitioners is unable to point out any such ground which calls for interference by this Court. Petitioners are at liberty to avail the

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remedy(ies) as may be available to them in accordance with law for the grievance(s) as raised in these writ petitions.

9. Keeping in view the facts and circumstances as above, both the writ petitions are dismissed with liberty to petitioners to avail remedy(ies) as may be available to them in accordance with law.

10. Pending miscellaneous application(s), if any, in both the writ petitions stand disposed of accordingly as well.

(LISA GILL)
JUDGE

(AMARJOT BHATTI)
JUDGE

27.05.2024
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No