

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

2024.PHHC:075345-DB



(219)

**CWP-16395-2020(O&M)
Date of Decision: 27.05.2024**

M/s A.K. Roller Flour Mill & another

--Petitioners

Versus

Kotak Mahindra Bank Ltd. & others

--Respondents

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

Present:- Mr. Alankar Narula, Advocate for petitioners.

Mr. Nitin Ahluwalia, Advocate for respondents.

LISA GILL.J (Oral)

Prayer in this petition is for setting aside notice dated 13.07.2020 (Annexure P-19) issued under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (for short SARFAESI Act) as well as letter dated 03.09.2020 (Annexure P-23) vide which objections dated 17.08.2020 stood rejected.

2. Notice of motion was issued in this writ petition on 07.10.2020. Submission on behalf of petitioners was that they are ready to deposit sum of Rs.50 lakh and liquidate the entire loan amount within reasonable time. Sum of Rs.50 lakh was directed to be deposited on or before 21.10.2020 consequent to which dispossession of petitioner no.2 from the residential house was stayed.

3. Writ petition has been opposed with a specific objection raised that it is only a notice under Section 13(2) of SARFAESI Act which has been issued, therefore, writ petition in any case is not entertainable at this

stage. It was incumbent upon petitioners to have waited for any action to be taken under Section 13(4) and thereafter if so aggrieved, availed their remedy under Section 17 of SARFAESI Act.

4. Learned counsel for petitioners submits that he has instructions to withdraw this writ petition, at this stage, with liberty to petitioners to avail statutory remedy/(ies) as may be available to them in accordance with law, at the appropriate stage. However, it is prayed that sum of Rs.15 lakhs which was directed to be deposited in the shape of FDR by way of order dated 28.07.2022 passed in this writ petition, be refunded to them. Petitioners do not seek refund of sum of Rs.50 lakhs deposited pursuant to order dated 16.10.2020.

5. Learned counsel for respondents does not raise any serious objections thereto in view of judgement of Hon'ble the Supreme Court in **Kut Energy Pvt. Ltd. & others Vs. The Authorized Officer, Punjab National Bank & others, AIR 2019 S.C. 4994.**

6. Writ petition is accordingly dismissed as withdrawn. Keeping in view stand of respondents as above, amount of Rs.15 lakhs deposited by the petitioners in terms of order dated 28.09.2022 be refunded to them qua adequate proof of identity.

7. Pending application(s), if any, shall also stand disposed of.

(LISA GILL)
JUDGE

27.05.2024
lucky

(AMARJOT BHATTI)
JUDGE

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