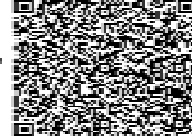


2024:PHHC:065099-DB



242

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

CWP-24783-2022

Date of Decision: May 13, 2024

Sukhjit Kaur and another

..... Petitioners

Versus

Authorised Officer, Shri Ram Housing Finance Limited and others

..... Respondents

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

Present: Mr. Bhupinder Singh, Advocate for the petitioners.

Ms. Priyanaka Gupta, Advocate for respondents No 1 to 3.

Mr. R.S. Pandher, Sr. DAG, Punjab.

LISA GILL, J.

1. Petitioners have filed this writ petition seeking setting aside of notice dated 23.03.2022 (Annexure P2) under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short – ‘SARFAESI Act’); notice dated 06.06.2022 (Annexure P3) under Section 13(4) of SARFAESI Act and order dated 14.10.2022 (Annexure P4) under Section 14 of SARFAESI Act. There is further prayer for directing respondent – Bank to regularise petitioners’ account and not to take physical possession of secured asset (house) as petitioners are stated to be ready to deposit overdue amount and future instalments on time.

2. Notice of motion was issued in this writ petition on 28.10.2022 while directing that subject to petitioners depositing sum of ₹2 lakhs with

respondents No. 1 to 3 within four weeks from the said date and continuing to pay future instalments at the rate of Rs.14,000/- per month on time, no coercive action would be taken against them and in default of compliance of order it would stand vacated. Said order dated 28.10.2022 was modified on 15.12.2022 clarifying that future instalments shall be at the rate of ₹34,352/- per month. Time was granted petitioners to pay the difference upto date within three weeks. Petitioners have challenged proceedings under SARFAESI Act initiated against them including notice(s) dated 23.03.2022, 06.06.2022 and order dated 14.10.2022 to be illegal, arbitrary and in total violation of applicable provisions of law.

3. Learned counsel for respondent No. 7 – Asset Reconstruction Company Limited (ARCIL) submits that writ petition apart from not being entertainable in view of judgments of Hon'ble the Supreme Court in **Union Bank of India v. Satyawati Tandon and others, 2010(8) SCC 110; Varimadugu Obi Reddy v. B. Sreenivasulu and others, 2023(1) R.C.R.(Civil) 34; M/s South Indian bank Ltd. and others v. Naveen Mathew Philip and another, 2023(2) RCR (Civil) 771 and Phoenix ARC Private Limited versus Vishwa Bharti Vidya Mandir and others, 2022 (1) RCR (Civil) 888**, is rendered infructuous.

4. It is stated that debt in question was assigned by respondents No. 1 to 3 to respondent No. 7 vide assignment agreement dated 29.12.2022 registered on 12.01.2023. Respondent No. 7 has, thus, stepped into the shoes of original lender – respondents No. 1 to 3. It is submitted that notice(s)/order as impugned in the writ petition have since been withdrawn (dated 23.03.2022, 06.06.2022 and 14.10.2022). Fresh demand notice dated 20.04.2023 has been issued under

Section 13(2) of SARFAESI Act. Petitioners, it is submitted, are well aware of the same as they have submitted their reply (Annexure R7/2) to notice dated 20.04.2023. Learned counsel for respondent No. 7 adds that interim order dated 28.10.2022, as modified on 15.12.2022, has also not been complied with by petitioners. It is only sum of ₹2.28 lakhs in all which had been deposited. Sum of Rs. 2 lakhs was also deposited on 31.01.2023. As on 28.12.2023, petitioners were liable to deposit sum of ₹30,94,840.97. It is, thus, prayed that this writ petition be dismissed.

5. Learned counsel for petitioners is unable to deny that impugned notices have since been withdrawn by respondent No. 7 to whom debt in question has been assigned. Fresh notice under Section 13(2) of SARFAESI Act stands issued to petitioners.

6. Keeping in view factual matrix as above, this writ petition is disposed of as infructuous with liberty to petitioners to avail statutory remedy(ies) available to them in accordance with law at appropriate time and juncture in case of any grievance qua proceedings now undertaken against them by respondent No. 7 under SARFAESI Act.

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

(LISA GILL)
JUDGE

(AMARJOT BHATTI)
JUDGE

May 13, 2024

rts