



CWP-24189-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision : 20.09.2024

Gurpal

... Petitioner

Versus

Reserve Bank of India and another

.. Respondents

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present:- Mr. Akhilesh Vyas, Advocate for the petitioner.

Anupinder Singh Grewal, J. (Oral)

Learned counsel for the petitioner submits that petitioner had taken a housing loan for an amount of Rs.21,47,409/- on 20.06.2016. Notice under Section 13(2) of SARFAESI Act was issued on 19.12.2019 for a sum of Rs.22 lacs approximately (Annexure P-1). He further submits that the petitioner had preferred Securitization Application No.154 of 2022 before the DRT-II, Chandigarh which is pending adjudication. The respondent-bank has issued sale notice on 17.08.2024 (Annexure P-3) proposing the date of auction as 24.09.2024. He also submits that the SA preferred by the petitioner cannot be listed for hearing for want of functioning of DRT-II and therefore, prays for interim protection till the DRT-II resumes its functioning.

2. Heard.

3. The petitioner has preferred SA before the DRT-II and due to its non-functioning, the same is not being taken up for hearing. The petitioner cannot be



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left remediless especially when the same has been provided by a Statute. We also draw our support from the order of the Supreme Court dated 16.12.2021 in the case of ‘**State Bar Council of Madhya Pradesh Vs. Union of India**’ *Special Leave Petition (C) No.10911/2021*. Relevant extract is reproduced hereinbelow:-

“13. With a view to resolve the problem being faced by the parties, for the time being and purely as a stopgap arrangement, we request the concerned High Court(s) to entertain the matters falling within the jurisdiction of DRTs and DRATs under Article 226 of the Constitution of India, till further orders.
14. We make it clear that once the Tribunal(s) is/are constituted, the matters can be relegated to the Tribunals by the High Court(s).”

4. As DRT-II is stated to be non-functional, it would be in the interest of justice, if the petitioner is protected for some time till the DRT-II resumes its functioning. We expect the competent authority to take decision expeditiously.
5. Consequently, the petition is disposed of with a direction that the sale shall not be confirmed for a period of 15 days after the DRT-II resumes its functioning. It is made clear that the petitioner shall not make any effort to delay the proceedings and shall cure the defects in the application, if any, immediately.
6. Needless to observe that we are not making any expression on the merits of the case which would be adjudicated by the DRT in accordance with law.

(ANUPINDER SINGH GREWAL)
JUDGE

(LAPITA BANERJI)
JUDGE

September 20, 2024
sonia gugnani

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