

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-25962-2022(O&M)
Date of decision: 25.01.2024

SANJEEV KUMAR AND OTHERS

..... Petitioners

V/S

FULLERTON INDIA CREDIT CO LTD

..... Respondents

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

Present: Mr. Mayank Garg, Advocate for the petitioners.

Mr. Kartik Khicher, Advocate for respondents.

LISA GILL, J.(Oral)

1. Prayer in this writ petition is for quashing demand notice dated 22.03.2022 (Annexure P-8) issued under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act), 2002 Act and notice dated 29.07.2022 issued under Section 13(4) of SARFAESI Act. It is prayed that physical possession of secured asset be not taken by Financial Institution.

2. Availing of financial credit from respondent-Financial Institution, financial indiscipline on the part of respondent, for reasons as may and subsequent initiation of proceedings under SARFAESI Act by respondent is a matter of record.

3. Relief claimed in this writ petition is qua Private Non Banking Financial Company. Learned counsel for respondent while submitting that apart from the fact that present writ petition is not entertainable in view of judgment of Hon'ble the Supreme Court in ***Phoenix ARC Private Limited***

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it has otherwise been rendered infructuous as petitioners did not deposit amount in terms of order dated 11.04.2023. Consequently, possession of property has since been taken.

4. Learned counsel for petitioners does not deny taking over possession of secured asset in question pursuant to non-deposit of amount in terms of order dated 11.04.2023 passed in this writ petition. In respect to any other subsisting grievance petitioners admittedly have efficacious remedies available to them with present writ petition not being entertainable in terms of judgment of Hon'ble the Supreme Court in **Phoenix ARC Private Limited (Supra)**.

5. Keeping in view facts and circumstances of the matter, writ petition is disposed of with liberty to petitioners to avail remedy(ies) as may be available to them in accordance with law. There is no expression of any opinion on merits of the matter.

6. Pending miscellaneous applications, if any, stand disposed of accordingly.

(LISA GILL)
JUDGE

(AMARJOT BHATTI)
JUDGE

25.01.2024
Sunil Devi

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