

**CWP-24791-2024****-1-**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**113****CWP-24791-2024**

Date of decision : 25.09.2024

Urmila

... Petitioner

Versus

Home First Finance Company India Ltd. and others

.. Respondents

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

Present:- Mr. Nihul Pratap Singh, Advocate for the petitioner.

Anupinder Singh Grewal, J. (Oral)

Learned counsel for the petitioner submits that the husband of the petitioner had taken housing loan credit facility for a sum of Rs.13,70,000/- and Insurance Loan Facility of Rs.1,06,751/- on 25.08.2022 & 20.09.2022 respectively from respondent No.1. He had been paying the instalments from 29.11.2022 to 07.07.2023 regularly but later due to financial difficulty, he could not pay the same and unfortunately expired on 09.12.2023. Notice under Section 13(2) of the SARFAESI Act was issued by the respondent/Bank on 04.07.2023 (Annexure P-4) for a sum of Rs.15,33,385/- and consequent thereto, notice under Section 14 of the SARFAESI Act had been issued by District Magistrate, Faridabad (respondent No.2) on 24.01.2024 (Annexure P-6) to take physical possession of the sole residential house of the petitioner. He also submits that the petitioner, who is a



CWP-24791-2024

-2-

widow, has preferred SA bearing Diary No.2038 of 2024 on 19.09.2024 before the DRT-II, but as it is not functioning, the same is not being heard.

2. Issue notice to the respondents.

3. At the asking of the Court, Mr. Anant Kataria, DAG, Haryana, accepts notice on behalf of respondents No.2 & 3.

4. Heard.

5. 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 or a litigant cannot be left remediless especially when the same has been provided by a Statute.

We 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)."

6. Consequently, the petition is disposed of with a direction that till the prayer of the petitioner for interim relief is decided by the DRT-II, no coercive steps under the SARFAESI Act, be taken against the petitioner.



CWP-24791-2024

-3-

7. It is clarified that this Court is not making any comment on the merits of the case including the fact that whether or not the petitioner is in possession of the secured asset.

8. It is further made clear that the petitioner shall not make any effort to delay the proceedings and shall remove the defects in the application, if any, immediately.

(ANUPINDER SINGH GREWAL)
JUDGE

(LAPITA BANERJI)
JUDGE

September 25, 2024
sonia gugnani

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