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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-26615-2022 (O&M)
Date of Decision: 30.01.2024

Kulwinder Kaur

..... Petitioner

Versus

Union of India and others

..... Respondents

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

Present: Ms. Shivya Sehgal, Advocate
for the petitioner.

Mr. Shekhar Verma, Advocate
for respondent No. 3-Bank (through Video Conferencing).

Mr. Sandeep Jain, Additional A.G. Punjab.

LISA GILL, J. (Oral)

1. Prayer in this writ petition is for quashing notice dated 03.08.2021 (Annexure P-3) issued under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act') as well as notice dated 31.10.2022 (Annexure P-7) issued by Tehsildar-cum-Executive Magistrate, Ludhiana (West) pursuant to order dated 25.08.2022 passed by District Magistrate, Ludhiana under Section 14 of SARFAESI Act. There is a further prayer for directing respondent No. 3 to restructure the loan account of petitioner's firm in terms of circulars of respondent No. 2-Reserve Bank of India (RBI) dated 06.08.2020 regarding 'Resolution Framework for COVID-19-related Stress' and directing respondent No. 3 to decide representation dated 18.12.2020 (Annexure P-2) and 26.09.2022 (Annexure P-5) regarding restructuring and proposal for One Time Settlement (OTS)

respectively. Further prayer is for directing respondents No. 3 and 4 not to

take coercive action qua secured asset of petitioner.

2. Learned counsel for petitioner argues that proceedings under SARFAESI Act initiated against petitioner are in total contravention of applicable provisions of law and various circulars issued by RBI. It is further submitted that petitioner's request for restructuring of loan account and proposal for OTS has not been accepted without any justifiable cause. Learned counsel for petitioner submits that secured asset is only residential property of petitioner, therefore, the request for restructure/OTS should have been accepted.

3. Learned counsel for respondent-Bank has opposed this writ petition with objection qua entertainability and on merits as well.

4. Having heard learned counsel for parties and perusing the file, we do not find any ground to interfere in this writ petition, at this stage. It is matter of record that petitioner availed of financial credit from respondent No. 3. There was financial indiscipline on the part of petitioner for reasons as may be, pursuant to which proceedings under SARFAESI Act were initiated against her. All pleas as raised in this writ petition are very well within the realm of consideration by the appropriate Forum/Tribunal. **Gainful reference in this regard can be made to the judgments of Hon'ble the Supreme Court of India 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, Authorized Officer, State Bank of Travancore and another versus Mathew K.C., 2018(3) SCC 85 and The**

Bijnor Urban Cooperative Bank Limited, Bijnor and others vs. Meenal Agarwal and others, 2021 SCC Online SC 1040

5. Keeping in view the facts and circumstances as above but without expression of opinion on the merits of matter, this writ petition is dismissed with liberty to petitioner to avail remedy(ies) available to her in accordance with law.

6. As interim order passed in favour of petitioner on 27.03.2023 has continued till date, same shall enure for a period of twenty (20) days from the date of receipt of certified copy of this order, in order to enable her to avail appropriate remedy as may be available in accordance with law. In case, petitioner files appropriate application/petition accompanied with requisite application(s), question of continuance or otherwise of interim order in petitioner's favour is necessarily in the realm of consideration by the appropriate Forum in accordance with law, without being influenced by any order, which may have been passed in this writ petition.

7. It is clarified that interim protection afforded to petitioner shall not enure beyond 20 working days in the absence of appropriate order by competent authority/Tribunal in accordance with law.

8. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

(LISA GILL)
JUDGE

30.01.2024

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(AMARJOT BHATTI)
JUDGE

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