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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-29867-2022

Date of Decision:- 23.01.2024

DHRUV CHUGH AND ANOTHER

....Petitioners

Vs.

AUTHORIZED OFFICER, PIRAMAL CAPITAL AND HOUSING
FINANCE LIMITED

...Respondent

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

Present:- Mr. Aman Arora, Advocate for petitioners.

Ms. Sidhi Bansal, Advocate for Mr. Rishabh Malik, Advocate
for respondent.

LISA GILL, J.

1. Petitioners, in this writ petition, have challenged order dated 20.12.2022 (Annexure P-5) passed by learned Debts Recovery Tribunal-2, Chandigarh ('DRT') to the extent that interim order for stay of dispossession of petitioners from the secured asset was not granted. It is submitted that learned DRT has refused to grant interim relief in an absolutely illegal and arbitrary manner. Moreover, the respondent is not supplying latest account statements.

2. Heard. Admittedly, petitioners had alternate efficacious remedy for redressal of grievances as raised in this writ petition specifically in terms of Section 18 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act), 2002 Act. It is settled position that SARFAESI Act is complete Code in itself providing for remedy (ies) for redressal of any grievance which may arise

on account of proceedings undertaken under the said Act. Interference in such like matters has to be minimal and restricted to exceptional or extraordinary circumstances. Gainful reference in this regard can be made to judgments of Hon'ble the Supreme Court in ***Union Bank of India v. Satyawati Tandon and others, 2010(8) SCC 110, M/s South Indian Bank Ltd. and others v. Naveen Mathew Philip and another, 2023(2) RCR (Civil) 771 and Varimadugu Obi Reddy v. B. Sreenivasulu and others, 2023(1) R.C.R.(Civil) 34.*** In ***Varimadugu's case (supra)*** it has been held as under:-

“34. In the instant case, although the respondent borrowers initially approached the Debts Recovery Tribunal by filing an application under Section 17 of the SARFAESI Act, 2002, but the order of the Tribunal indeed was appealable under Section 18 of the Act subject to the compliance of condition of predeposit and without exhausting the statutory remedy of appeal, the respondent borrowers approached the High Court by filing the writ application under Article 226 of the Constitution. We deprecate such practice of entertaining the writ application by the High Court in exercise of jurisdiction under Article 226 of the Constitution without exhausting the alternative statutory remedy available under the law. This circuitous route appears to have been adopted to avoid the condition of pre-deposit contemplated under 2nd proviso to Section 18 of the Act 2002.”

3. Learned counsel for petitioners is unable to point out any extraordinary exceptional circumstances which calls for interference by this Court for exercising jurisdiction under Article 226 of the Constitution of

India. So far as the account statements not being provided is concerned, learned counsel for respondent submits that statements of account as on 02.02.2023 is attached along with written statement (Annexure R-7) and the latest account statement shall be provided to petitioners through their counsel within next two working days.

4. Keeping in view the facts and circumstances, we do not find any ground for interference in this writ petition at this stage. Writ petition is accordingly dismissed with liberty to petitioners to avail remedy/remedies available to them in accordance with law.

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

(LISA GILL)
JUDGE

(AMARJOT BHATTI)
JUDGE

23.01.2024

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Whether speaking/reasoned: Yes/No.

Whether reportable: Yes/No