**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

126 **CWP-33435-2024.**
Date of Decision: 12.12.2024.

Kulwinder Singh and others ....Petitioners.

VERSUS

Union Bank of India and others ....Respondents.

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

Present: Mr. Praveen Kumar Bhatia, Advocate for the petitioners.

Mr. Gaurav Goel, Advocate for respondent-Bank.

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ANUPINDER SINGH GREWAL, J. (Oral)

The petitioners have *inter alia* challenged the sale certificate dated 14.08.2024 issued to the auction purchaser (respondent No.2). They have also sought direction to restrain respondent No.3 from taking physical possession of the premises.

2. Learned counsel for the petitioners submits that in pursuance of notice issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'SARFAESI Act'), the petitioners have deposited Rs.2 Lakhs within 60 days and the objection under Section 3-A has not been considered. Physical possession of the secured asset was erroneously taken and the property had been put to auction without proper publication in the newspaper. He also submits that although the petitioners have filed SA under Section 17 of the

SARFAESI Act, the writ petition would be maintainable as the officers of the respondent-Bank are holding a public office and they are performing administrative functions.

3. Heard.

4. It is manifest that notice under Section 13(2) of the SARFAESI Act, for a sum of Rs.31,94,335.16 had been issued on 11.01.2024. The petitioners are stated to have deposited only a sum of Rs.2 Lakhs on 11.03.2024. Notice under Section 13(4) of the SARFAESI Act was issued on 02.05.2024. The sale notice was issued on 14.06.2024. The property was put to auction on 26.07.2024. The bid of the auction purchaser was accepted and sale certificate had been issued on 14.08.2024. The petitioners had also challenged the sale proceedings by preferring SA before the DRT-II on 05.10.2024. The SA is pending adjudication before the DRT-II, but the petitioners have rushed to this Court.

5. In response to the query of this Court, as to how writ petition would be maintainable especially when the petitioners are availing alternative remedy before the DRT simultaneously, learned counsel for the petitioners has not been able to satisfy this Court on this aspect. He has only argued that the officers of respondent-Bank have to perform proper administrative functions and, therefore, writ would be maintainable.

6. We do not approve of such an argument as it is wholly devoid of any merit and deserves to be out-rightly rejected. Beneficial reference may be made to the judgements of the Supreme Court in the case of **United Bank of India vs. Satyawati Tandon and others, 2010(8) SCC 110** and **South Indian Bank Ltd. and others vs. Naveen Mathew Philip and another,**

2023 SCC OnLine SC 435. The auction has been confirmed and the sale certificate has also been issued.

7. In view of the above, we do not find any ground to interfere in the matter especially when the petitioners are already availing alternative remedy before the DRT and have approached this Court, which amounts to forum shopping and has to be discouraged.

8. The argument of learned counsel for the petitioners that he wants the redemption and is willing to pay the entire auction amount is also without any basis in view of the law laid down by the Supreme Court in the case of **Celir LLP vs. Bafna Motors (Mumbai) Private Limited and others, (2024) 2 SCC 1.**

9. Consequently, we do not find any merit in this petition and the petition being wholly misconceived stands dismissed.

10. The observations made hereinabove are only for the purpose of deciding this writ petition and will not have any bearing on the SA which has been preferred by the petitioners and the SA would be adjudicated upon in accordance with law.

(ANUPINDER SINGH GREWAL)
JUDGE

(LAPITA BANERJI)
JUDGE

12.12.2024
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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No