IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

122 **CWP-33926-2024.**
Date of Decision: 17.12.2024.

Roshni Devi ....Petitioner.

VERSUS

Authum Investment & Infrastructure Limited ....Respondent.

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

Present: Mr. Rajesh Goyal, Advocate for the petitioner.

Mr. Vipul Dharmani, Advocate and
Mr. Puru Gupta, Advocate for the respondent.

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ANUPINDER SINGH GREWAL, J. (Oral)

The petitioner has challenged notice dated 15.10.2024 (Annexure P-2) issued by the respondent under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'SARFAESI Act'), whereby the outstanding liability of the petitioner is Rs.31,44,966/-.

2. Learned counsel for the petitioner submits that as the loan, which the petitioner had obtained from the respondent was for a sum of Rs.14,20,000/- and the outstanding amount as on the date of issuance of notice under Section 13(2) of the SARFAESI Act, was Rs.19,78,335/-, the respondent could not have resorted to proceedings under the SARFAESI Act,

as the threshold for initiating the proceedings is Rs.20 Lakhs in terms of the notification issued by the Central Government on 12.02.2021. He also submits that as there is a jurisdictional error, the writ petition would be maintainable.

3. Issue notice to the respondent.

4. Mr. Vipul Dharmani, Advocate with Mr. Puru Gupta, Advocate has put in appearance and filed memo of appearance on behalf of the respondent, which is taken on record.

5. Learned counsel for the respondent submits that the petitioner had obtained two loans against one secured asset and the total outstanding amount is Rs.31,44,966/-. The total loan which was sanctioned was Rs.24,50,000/- as on 31.05.2017.

6. Heard.

7. The petitioner has obtained two loans for a total amount of Rs.24,50,000/- against one secured asset. The respondent has resorted to proceedings under the SARFAESI Act. We do not find any merit in the contention of learned counsel for the petitioner that as the amount is less than Rs.20 Lakhs, the respondent could not have proceeded under the SARFAESI Act for the reason that the petitioner had obtained loan for a total amount of Rs.24,50,000/- against the same secured asset and the outstanding due is more than Rs.31 Lakhs as on the date of issuance of notice under Section 13(2) of the SARFAESI Act.

8. In the afore-noted facts and circumstances especially when the loan, which had been obtained by the petitioner against one secured asset is over Rs.24 Lakhs, we do not find any jurisdictional error in initiating the

proceedings under the SARFAESI Act.

9. Furthermore, respondent is a private non-banking financial institution and is not amenable to writ jurisdiction as has been held by the Supreme Court in the cases of **Phoenix ARC Private Limited** vs. **Vishwa Bharati Vidya Mandir & Ors., (2022) 5 SCC 645** and **Federal Bank Ltd. vs. Sagar Thomas, (2003) 10 SCC 733.**

10. Consequently, the petition being devoid of any merit is dismissed.

11. At this juncture, learned counsel for the petitioner submits that he may be afforded liberty to seek recourse to the alternative remedy.

12. The petitioner would be at liberty to seek recourse to the alternative remedy in accordance with law.

(ANUPINDER SINGH GREWAL)
JUDGE

(LAPITA BANERJI)
JUDGE

17.12.2024
jitender

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No