

**CWP-1637-2022****1**

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-1637-2022**Date of decision: 27.08.2025****RAJWANTI****...PETITIONER****Versus****CAN FIN HOMES LTD.****...RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV BERRY**

Present: Mr. Vikas Lochab, Advocate
for the petitioner.

Mr. Paramjeet Phor, Advocate
for respondent.

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SHEEL NAGU, C.J. (Oral)

1. The petitioner, who is borrower, has approached this Court challenging notices under Section 13 (2) dated 09.10.2018 (Annexure P-1), (Annexure P-2) dated 19.03.2021 issued under Section 13(4) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short SARFAESI Act), on various grounds.

2. It is pertinent to mention that meanwhile, the District Magistrate, has allowed application filed by Bank under Section 14 on 03.03.2022 (Annexure P-4).

3. The Apex Court has consistently held that High Courts should refrain from interfering under Article 226 of the Constitution in SARFAESI proceedings. The SARFAESI Act, 2002 is a complete code which not only provides for a detailed recovery mechanism but also remedies before the Debts Recovery Tribunal (DRT) and thereafter, Debts Recovery Appellate Tribunal (DRAT).

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4. From the averments in the petition, it does not appear that the petitioner has availed the statutory alternative remedy of approaching the DRT and thereafter, before DRAT.

5. In view of above and the ratio laid down by Apex Court in *United Bank of India vs. Satyawati Tondon, (2010) AIR SC 3413 (Para 17, 27) ; Phoenix ARC Private Limited vs. Vishwa Bharati Vidya Mandir and others, (2022) 5 SCC 345 (Paras 10, 21) ; PHR Invent Educational Society versus UCO Bank and others, 2024 (6)SCC 579 (Paras 22 to 41)*, this Court refrains from exercise of jurisdiction under Article 226 of Constitution.

6. The petitioner is relegated to avail the appropriate statutory remedy under the SARFAESI Act before the DRT and thereafter before DRAT. In case the petitioner prefers an application under Section 17 of SARFAESI Act within a period of 30 days from today along with copy of this order, the same shall be considered and decided on its own merits, without being dismissed on limitation alone.

7. Interim relief, if granted, in the present petition, shall continue till the DRT takes fresh decision on the question of interim relief, provided the petitioner approaches the DRT within 30 days, failing which the interim relief shall lose its effect. It is made clear that if petitioners approach the Tribunal within the prescribed stipulated time, then this order shall not prejudice the mind of Tribunal while deciding the question of interim relief, if admissible to the petitioner. We further make it clear that the Tribunal shall decide the request for interim relief strictly on merits of the matter, without being influenced by the fact of petitioner having approached this Court or this Court having passed the present order.

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8. Accordingly, the writ petition stands disposed of with aforesaid liberty without commenting on merits, without cost.
9. Pending application, if any, be also disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(SANJIV BERRY)
JUDGE

27.08.2025
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No