



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

CWP No.4875 of 2025 (O&M)
Date of Decision: 20.02.2025

M/S DESWAL BROTHERS AND OTHERS

....Petitioners

Versus

PUNJAB NATIONAL BANK AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Ms. Vini Mahajan, Advocate
for the petitioners.

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ANUPINDER SINGH GREWAL, J. (Oral)

Learned counsel for the petitioners submits that earlier the petitioners had preferred a writ petition, which was dismissed on 03.02.2025 primarily on the ground that the petitioners were already availing the alternative remedy. She further submits that the petitioners had preferred a SA bearing No.322 of 2024 but the same has not been heard for want of Presiding Officer of DRT-II, Chandigarh. She also submits that two shops of the petitioners have already been sold and the possession thereof is to be taken tomorrow. She submits that the petitioners be protected till the DRT-II, Chandigarh resumes its functioning. She also submits that the petitioners had obtained another loan by mortgaging their residential house and want to settle the matter with the respondent-Bank.

2. Issue notice to the respondents.



3. Mr. Gaurav Goel, Advocate, puts in appearance through video-conferencing on behalf of the respondent-Bank with Mr. Saurav Goyal and Mr. Tarlok Singh, Advocates and submits that One Time Settlement (OTS) proposal of the petitioners with regard to the loan obtained against the house is pending consideration with the respondent-Bank and they shall not initiate any further steps under the SARFAESI Act till a decision is taken by the competent authority.

4. Heard.

5. It is manifest that the petitioners had preferred SA bearing No.322 of 2024, which is not being taken up for hearing for want of the Presiding Officer in DRT-II, Chandigarh. It is settled law that the petitioners cannot be left remediless especially when the same has been provided by a Statute. We also draw our support from the order of the Supreme Court dated 16.12.2021 in the case of '**State Bar Council of Madhya Pradesh Vs. Union of India**' Special Leave Petition (C) No.10911/2021. Relevant extract is reproduced hereinbelow:-

“13. With a view to resolve the problem being faced by the parties, for the time being and purely as a stopgap arrangement, we request the concerned High Court(s) to entertain the matters falling within the jurisdiction of DRTs and DRATs under Article 226 of the Constitution of India, till further orders.

14. We make it clear that once the Tribunal(s) is/are constituted, the matters can be relegated to the Tribunals by the High Court(s)”

6. As DRT-II is stated to be non-functional, it would be in the interest of justice, if the petitioners are protected for some time till the DRT-II resumes its functioning.



7. In view of the above, we dispose of this petition with a direction that the respondent-Bank shall not take coercive measures against the petitioners with regard to the physical possession of the afore-noted shops for a period of 15 days after the DRT-II resumes its functioning.

(ANUPINDER SINGH GREWAL)
JUDGE

20.02.2025
sandeep

(DEEPAK MANCHANDA)
JUDGE

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No