

CWP-6580 of 2022 (O&M)

2025 FHC:153770-06



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

**CWP-6580 of 2022 (O&M)
Date of decision: 26.11.2025**

M/S SHARMA INDUSTRIES**....Petitioner****V/S****STATE BANK OF INDIA AND ANOTHER.****... Respondents**

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR, JUDGE**

Present: Mr. R.K. Jaswal, Advocate for the petitioner.

**Mr. Sumit Narang, Advocate and
Mr. Rahul Sharma, Advocate for respondent/Bank.**

***********SHEEL NAGU, CHIEF JUSTICE (Oral)**

1. The petitioner/borrower who is assailing the notice dated 30.08.2018 (Annexure P-2) issued under Section 13(2) and notice dated 09.11.2018 issued under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act')

2. This Court while taking cognizance of this matter on 30.03.2022 had stayed the dispossession of the petitioner from the secured asset.

3. The Apex Court has time and again come down heavily on High Court for entertaining writ petitions in matters pertaining to SARFAESI Act. (Please see **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)**)



4. Thus, the petitioner has an alternative and efficacious remedy of approaching the Debts Recovery Tribunal and thereafter, before Debts Recovery Appellate Tribunal.

5. This Court, therefore, declines interference and relegates the petitioner 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.

6. The petitioner further contends that his case falls within one of the four exceptions carved out by the decisions of the Apex Court in the case of **Whirlpool Corporation Vs. Registrar of Trademarks, Mumbai and others, AIR 1999 SC 22** and several others. In particular, learned counsel for the petitioner submits that the principles of natural justice have been violated.

6.1 The principles of natural justice would be violated only if no notices under Sections 13(2) and 13(4) of the SARFAESI Act were issued to the petitioner. The respondent-Bank, however, has filed its reply disclosing reasons to justify its action. These aspects are not required to be examined in detail at this stage, lest the case of the petitioner be prejudiced before the DRT. It is also pertinent to note that the petitioner has not filed any replication to the said reply.

7. Interim relief 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 petitioner approaches 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

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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.

8. Accordingly, with the aforesaid liberty, the present petition stands disposed of.

9. All pending Civil miscellaneous application(s), if any, also stand disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(YASHVIR SINGH RATHOR)
JUDGE

26.11.2025

Kamal Gandhi

Whether speaking/reasoned Yes/No
Whether reportable Yes/No