IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-5443-2023

Date of decision : 22.08.2025

Karam Chand

…….Petitioner

Versus

Cholamandalam Investment & Finance Company Ltd. and others

...….Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MS. JUSTICE RAMESH KUMARI

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

Mr. Sahil Khunger, Advocate,
for the respondents.

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SHEEL NAGU, CHIEF JUSTICE (Oral)

1. The present petition filed by the borrower assails not only the demand notice dated 17.06.2022 (Annexure P-2) issued under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, "SAFRAESI Act"), but also possession notice dated 02.09.2022 (Annexure P-3) issued under Section 13 (4) of the SARFAESI Act, besides challenging e-auction of his mortgaged properties, which was scheduled to be held on 30.03.2023.

2. This Court, while taking cognizance of the matter, vide interim order dated 29.03.2023 restrained the respondent – Bank from proceeding with auction of the secured asset of the petitioner - borrower, subject to his

depositing Rs. 25 lakhs and also continuing to pay the instalments on regular basis in future.

3. It is informed that though the amount of Rs. 25 lakhs was deposited by the petitioner – borrower, but thereafter, since May, 2023, instalments in the loan account have not been paid.

4. In view of the above, it is obvious that the condition, subject to which interim order to restrain the respondent Bank from holding auction was passed, has not been complied with by the petitioner – borrower and, therefore, the interim order dated 29.03.2023 does not exist in the eyes of law.

5. 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 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).

6. This Court, therefore, relegates the petitioner to avail remedy under the SARFAESI Act against the impugned notices, especially possession notice dated 02.09.2022 (Annexure P-3) issued under Section 13 (4) of the SARFAESI Act, as well as recourses adopted by the respondent – Bank pursuant thereto.

7. The prayer made by learned counsel for the petitioner – borrower for continuation of interim order dated 29.03.2023 cannot be granted, in view of default of the petitioner to comply with the condition, subject to which the interim relief was granted way back in March, 2023.

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

(SHEEL NAGU)
CHIEF JUSTICE

(RAMESH KUMARI)
JUDGE

August 22, 2025
narotam

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