



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

CWP No.7110 of 2025 (O&M)

Date of Decision: 17.03.2025

NARESH KUMAR GUPTA AND ANOTHER

....Petitioners

Versus

THE DEPUTY COMMISSIONER PANIPAT AND OTHERS

.....Respondents

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

Present: Mr. G.C. Shahpuri, Advocate
for the petitioners.

Mr. Anant Kataria, DAG, Haryana
for respondents No.1 and 2.

Mr. Satya Pal Jain, Addl. Solicitor General of India with
Mr. Dheeraj Jain, Senior Panel Counsel for UOI.

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ANUPINDER SINGH GREWAL, J. (Oral)

Learned counsel for the petitioners submits that the petitioners had taken a loan of Rs.20.20 Lakhs from Magma Fincorp. The petitioners had entered into a one-time settlement with Magma Fincorp, vide settlement agreement dated 28.10.2019 (Annexure P-1) for a sum of Rs.9,15,000/- and pursuant to said settlement, the petitioners had deposited a sum of Rs.3,54,000/-. Thereafter, the assets of Magma Fincorp were taken over by respondent No.4, who had erroneously issued a notice dated 05.03.2022 (Annexure P-2) under Section 13(2) of the SARFAESI Act for a sum of Rs.1,09,65,868.79. The petitioners had earlier preferred a petition bearing CWP No.15397 of 2022 and deposited a sum of Rs.10 Lakhs with



respondent No.4. The said petition was thereafter dismissed with liberty to the petitioners to avail the remedy(ies) available to them in accordance with law while taking up all available pleas. Thereafter, the petitioners preferred a Securitization Application i.e. SA-631-2024 before the DRT-II. In the said SA, notice had been issued on 24.01.2025 and it had to come up on 21.02.2025 for reply and consideration but later for want of Presiding Officer, the matter could not be listed and heard. In the meanwhile, the respondent No.2/Tehsildar, Panipat has issued a notice dated 06.02.2025 (Annexure P-10) for taking possession of the premises, which is a residential house on 18.03.2025. He further submits that petitioners may be protected till the DRT-II resumes its functioning.

2. Heard.

3. 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)”

4. 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.

5. At this juncture, Mr. Satya Pal Jain, Additional Solicitor General of India submits that the proposal for extending the additional charge of DRT-II to DRT-I has been sent to the Appointments Committee of the Cabinet (ACC).

6. The petition is disposed of with a direction that no coercive measures shall be taken against the petitioners for a period of 15 days after the DRT-II resumes its functioning.

(ANUPINDER SINGH GREWAL)
JUDGE

17.03.2025
sandeep

(DEEPAK MANCHANDA)
JUDGE

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No