



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

COCN No.1848 of 2025 (O&M)

Reserved on: 14.07.2025

Pronounced on : 05.09.2025.

M/s Sriyansh Knitters and others

...Petitioner

VS

**Swaroop Kumar, Tripathy, Chief Minister/Authorized Officer, The
South Indian Bank Ltd.**

...Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Akhilesh Vyas, Advocate
for the petitioners.

Mr. Kausik Chatterjee, Advocate
for the respondent

VIKRAM AGGARWAL, J

The present petition has been instituted under Section 12 of the Contempt of Courts Act, 1971 (hereinafter referred to as 'the 1971 Act') for initiation of proceedings against the respondent for willful and deliberate disobedience of order dated 29.01.2025 (Annexure P-1) passed by the Debts Recovery Tribunal-III, Chandigarh (hereinafter referred to as the 'DRT') in S.A. No.327 of 2024.

2. It has been averred that the petitioner (Sriyansh Knitters) availed credit facilities from the South Indian Bank Ltd. On account of a dispute having arisen between the parties, proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the SARFAESI Act) were initiated. Notice under Section 13(2) dated 04.01.2023 was issued and the account of the petitioner was classified as NPA on 22.11.2022 after which fresh notice under Section 13(2) was issued on 29.01.2025.

2.1 Possession notices dated 09.05.2024 were issued. Aggrieved by the action of the respondent, S.A. No.327 of 2024 was instituted by the petitioner before the DRT in which interim order dated 29.01.2025 (Annexure P-1) was passed. By way of the said order, the bank was directed not to take any coercive action. On 01.02.2025, the Presiding Officer was on leave and the case was adjourned to 15.02.2025. On 15.02.2025, an adjournment was sought by counsel for the petitioner.

2.2 It has been averred that the petitioner received messages from the bank stating that auction proceeds in the account of the petitioner had been confirmed. It has, therefore, been alleged that the order dated 29.01.2025 had been violated leading to filing of the instant petition.

2.3 The contempt petition has been opposed by the respondent. Reply by way of affidavit was filed in which a preliminary objection as regards maintainability has been raised. It has been averred that the DRT is not a Court subordinate to the jurisdictional High Court within the meaning of Section 10 of the 1971 Act and in fact the DRT is not a Court at all. It has also been averred that contempt proceedings cannot be instituted or sought to be instituted before a High Court under Section 10 of the 1971 Act for willful or deliberate disobedience of an order passed by the DRT.

2.4 On merits, averments have been made as regards the advancement of loan etc., which are not essential for the purpose of decision of the present contempt petition. It has further been averred that the stay application was to be listed on 29.01.2025. The Presiding Officer of DRT was on leave as a result of which the matter was scheduled to be taken up at 2.30 P.M. by DRT-II. The DRT-II took up the matter at about 2.30 P.M. and adjourned the matter to 01.02.2025 and ordered that till that date, the bank

would not take any coercive action. It had been submitted by the bank that the stay application has become infructuous as e-auction had already been completed. From the records it emerges that the e-auction had ended on 29.01.2025 at 11.50 A.M. *qua* property No.1 and *qua* property No.2 the same ended at 2.05 P.M.

2.5 It has also been averred that the interim order was to operate till February 01, 2025 only and was never extended thereafter. Accordingly, upon receipt of the entire sale consideration, sale certificate was issued by the bank to the auction purchasers on 24.03.2025 and 26.03.2025, respectively. It has been averred that under the circumstances, no contempt was committed.

3. I have heard learned counsel for the parties.

4. Mr. Akhilesh Vyas, learned counsel for the petitioners has strenuously urged that the instant contempt petition is duly maintainable and that the respondents have committed willful disobedience of the orders passed by the DRT. Learned counsel has taken the Court through the orders passed by the DRT and has submitted that despite specific protection having been granted, the respondent committed contempt of Court by conducting auction of the properties. In support of his contentions learned has placed reliance upon judgment of the Supreme Court of India in the case of ***T. Sudhakar Prasad Vs. Govt. of A.P. and others (Civil Appeal No.5089-90 of 1998, decided on 13.12.2000.***

5. Per contra, learned counsel for the respondents has submitted that the contempt petition is not maintainable and even otherwise, no contempt of the orders passed by the DRT has been committed by the petitioners. In support of his contentions, learned counsel has placed reliance

upon order dated 19.07.2024, passed by a Coordinate Bench in ***COCP No. 2379 of 2024 titled as Parkash Mann Vs. The Authorized Officer, State Bank of India and another and*** judgment dated 01.11.2007 passed by Division Bench of this Court in ***CR No. 7649 of 2014, titled as Punjab National Bank Vs. HDFC Bank and others.***

6. I have considered the submissions made by learned counsel for the parties and have perused the paper book.

7. The first question which arises for consideration of this Court is as regards maintainability of the present contempt petition.

8. Section 2(a) of the 1971 Act defines Civil Contempt;

“(a) “contempt of court” means civil contempt or criminal contempt.”

9. Section 10 of the 1971 Act deals with the power of the High Court to punish for contempt's of Subordinate Courts;

“10. Power of High Court to punish contempts of subordinate courts.—

Every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of courts subordinate to it as it has and exercises in respect of contempts of itself:

Provided that no High Court shall take cognizance of a contempt alleged to have been committed in respect of a court subordinate to it where such contempt is an offence punishable under the Indian Penal Code (45 of 1860).

10. Further, the Hon'ble Supreme Court of India and the High Courts exercise powers of contempt being Courts of record under Article 129 and 215 of the Constitution of India respectively. Article 129 of the Constitution of India reads as under:-

“129. Supreme Court to be a court of record

The Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.”

11. Article 215 of the Constitution of India reads as under:-

“215. High Courts to be courts of record

Every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.”

12. The Debts Recovery Tribunal derives its power from two statutes i.e., the Recovery of Debts due to Banks and Financial Institutions Act 1993 (hereinafter referred to as the ‘RDB Act 1993’) and Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short ‘SARFAESI Act’). Section 19(17) of the RDB Act 1993 provides as under:-

“XXXX XXXX XXXX XXXX

17. In the case of disobedience of an order made by the Tribunal under sub-sections (12), (13) and (18) or breach of any of the terms on which the order was made, the Tribunal may order the properties of the person guilty of such disobedience or breach to be attached and may also order such person to be detained in the civil prison for a term not exceeding three months, unless in the meantime the Tribunal directs his release.”

13. Still further, Section 19(25) of the RDB Act 1993 states that the Tribunal make such orders and gives such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.

14. The question which, therefore, primarily arises as to whether the DRT is a Court subordinate to the High Court and in-fact whether it is a Court at all or not.

15. In *Nahar Industrial Enterprises Limited Vs. Hong Kong and Shanghai Banking Corporation*, 2009 (8) SCC 646, the Hon'ble Supreme Court of India held that the DRT is not a Court.

16. Still further, in *T. Sudhakar Prasad Vs. Govt. of A.P. and others (supra)*, the Supreme Court of India held that Administrative Tribunal do have the power to deal with contempts keeping in view the provisions of Section 17 of the Administrative Tribunals Act 1985;

“Contempt jurisdiction is exercised for the purpose of upholding the majesty of law and dignity of judicial system as also of the courts and tribunals entrusted with the task of administering delivery of justice. Power of contempt has often been invoked, as a step in that direction, for enforcing compliance of orders of courts and punishing for lapses in the matter of compliance. The majesty of judicial institution is to be ensured so that it may not be lowered and the functional utility of the constitutional edifice is preserved from being rendered ineffective. The proceedings for contempt of court cannot be used merely for executing the decree of the court. However, with a view to preserving the flow of the stream of justice in its unsullied form and in unstinted purity willful defiance with the mandate of the court is treated to be contemptuous. Availability of jurisdiction to punish for contempt provides efficacy to functioning of the judicial forum and enables the enforcement of the orders on account of its deterrent affect on avoidance. Viewed from this angle the validity of [Section 17](#) of the Act is protected not only by sub-clause (b) of Clause (2) of [Article 323-A](#) but also by sub-clause (g) thereof.

For the foregoing reasons the appeals are allowed. The judgment of the High Court is set aside. CWP No.34841 of 1998 filed in the High Court of Andhra Pradesh laying challenge to the jurisdiction of the Tribunal to deal with its own contempt is directed to be dismissed. The Tribunal shall now proceed ahead with the proceedings pending before it as per law. Contempt Case No.1054/1998 filed before the High Court invoking its contempt jurisdiction is directed to be transferred to the Tribunal for being dealt with under [Section 17](#) of the Administrative Tribunals Act, 1985. Complete record of the proceedings shall be transmitted by the High Court to the Tribunal. The appeals stand disposed of accordingly. No order as to the costs.”

17. A Coordinate Bench was dealing with a similar issue in the case of *Parkash Mann Vs. The Authrozied Officer, SBI and another (supra)*. In that case, the petitioner had alleged willful disobedience of an order passed by the DRT. The Coordinate Bench held that no contempt petition was maintainable qua the order passed by the DRT;

“2. The present contempt petition has been filed qua the alleged violation of the order dated 08.05.2024 passed by the Debts Recovery Tribunal. However, the DRT does not fall within the definition of the Court; for the purpose of the Contempt of Court. The mechanism of the aforesaid institution is created only for the specific purpose, having no plenary powers of Court, as such. Neither the existence and working of DRT confirms to the concept of separation of powers, as clarified by the Hon'ble Supreme Court in 'Kesavananda Bharati Sripadagalvaru and others Vs. State of Kerala And Anr.' AIR 1973 Supreme Court 1461, nor is the Presiding Officer of DRT appointed and controlled in the manner as envisaged for the Court under the Constitution of India. Hence, the present petition is not maintainable qua the

order dated 08.05.2024 passed by the Debts Recovery Tribunal.”

18. A similar view was taken by a Coordinate Bench in the case of *Sh. Shiv Kumar Gupta and others Vs. Sh. Ajay Singh Tomar and others (COCP No. 1479 of 2025, decided on 25.03.2025)*.

19. Keeping in view the aforesaid discussion, this Court is of the considered opinion that a contempt petition alleging willful disobedience of an order passed by the DRT is not straightway maintainable before the High Court and the petitioner, in such a case, would have to avail remedies available under the applicable statutes as have been referred to in the preceding paragraphs. However, in case of an order being passed after such a remedy is availed, the petitioner would be free to avail other remedies as shall be admissible in law.

The contempt petition is accordingly disposed of with the above observations.

(VIKRAM AGGARWAL)
JUDGE

Pronounced on: 05.09.2025
Rekha

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