



107

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

CWP No.13009-2022(O&M)

Date of decision: 23.09.2025

GURMUKH SINGH AND ANOTHER

... PETITIONERS

Versus

PUNJAB AND SIND BANK & OTHERS

... RESPONDENTS

**CORAM:- HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV BERRY**

Present:- Mr. Mohan Jain, Senior Advocate with
Ms. Divya Gupta, Advocate for the petitioners.

Mr. Rajnish K. Jindal, Advocate for the respondent No.1-Bank.

SANJIV BERRY, J.

1. By way of the instant writ petition the petitioners have sought issuance of writ in the nature of certiorari for quashing of the order dated 11.05.2022 (Annexure P-7) passed by respondent No.5 whereby the application for setting aside *ex-parte* proceedings as well as for condonation of delay was dismissed. The petitioners have also sought quashing of the orders dated 29.05.2014 (Annexure P-5) and 21.08.2015 (Annexure P-6) alleging the same to have been passed without application of mind by the concerned Authority.

2. In *nutshell* the case of the petitioner is that the petitioner No.1 is proprietor of M/s Assam Timber Traders having Bank account with respondent No.1- Bank. It is alleged that the respondent No.2 claimed to be



working as facilitator for grant of loan having acquaintance with Banks and had got a loan sanctioned for petitioners from Punjab National Bank in 2007 against the security of the property which was later switched to Bank of Punjab and then to Punjab and Sind Bank. It is alleged that the signatures of the petitioners on various bank papers for the purpose of the loan were taken with the assistance of respondent No.2. There had been no default in the account being regular but in April 2016 the petitioner No.1 on visiting the Bank came to know that the Bank had initiated the recovery proceedings against the petitioners and after searching the record of respondent No.5 i.e. Debt Recovery Tribunal, he got certified copy of OA 952/2013 (Annexure P-1). The perusal of the file would reveal that vide order dated 21.08.2015 (Annexure P-6) petitioners were ordered to be proceeded against *ex-parte* by the Presiding Officer Debt Recovery Tribunal -I Chandigarh. The petitioners were never served in the case nor they received any summon or notice. The petitioners moved an application for setting aside the *ex-parte* proceedings which was dismissed vide order dated 11.05.2022 (Annexure P-7). Hence the petition.

3. The arguments addressed by learned counsel for the parties have been considered.

4. It is the contention of learned Senior counsel representing the petitioner that the petitioners have no concern in the alleged transaction as their signatures had been taken on blank papers in connivance with respondent No.2. The petitioners were maintaining regular accounts and were not aware of any recovery proceedings initiated by the Bank, wherein the Authorities by passing the impugned orders (Annexures P-5 and P-6) had



proceeded ex-parte against them and on coming to know about the same the petitioners moved an application for setting aside the proceedings which however was wrongly dismissed vide order dated 11.05.2022 (Annexure P-7) by the Presiding Officer, Debts Recovery Tribunal-II, Chandigarh. He contends that the petitioners were never served in the said proceedings before the Debt Recovery Tribunal, Chandigarh and the Presiding Officer had passed the orders (Annexure P-6 and P-7) in an illegal manner, without appreciating the facts and circumstances of the case, as such, the same are liable to be set-aside and quashed.

5. After considering the submissions and perusing the record, it transpires that the petitioner by way of present petition filed under Article 226 of the Constitution of India have challenged primarily the legality of the impugned orders (Annexure P-6 and P-7) passed by the Presiding Officer, Debt Recovery Tribunal-I and II, Chandigarh. Vide the impugned order dated 21.08.2015 (Annexure P-6), *ex-parte* proceedings against the petitioners were initiated in OA No. 952/2013 and vide order dated 11.05.2022 (Annexure P-7) the application seeking condonation of delay in filing application for setting-aside of the *ex-parte* order dated 21.08.2015 (Annexure P-6) had been dismissed.

6. It is not disputed that remedy of appeal is provided under the Provision of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to 'SARFAESI Act, 2002').

7. Further, as per the contentions of the petitioners, they had disputed the service of notices in the aforesaid proceedings and had even



alleged some blank signed papers of them having been used to show the due service. Therefore, a lot many disputed questions and facts are involved in the case so as to assess the contentions of the petitioner qua the valid service of the summons/notices which cannot be gone into while exercising the powers under Article 226 of the Constitution of India. Although, the violation of natural justice can be looked into under Article 226 of the Constitution but when a lot many disputed questions of fact are involved, then it cannot be adjudicated in a petition filed under Article 226 of the Constitution, especially when efficacious alternative remedy of appeal is available to the petitioners as per the Provisions of the ‘SARFAESI Act, 2002’. Therefore, in the light of the above discussion, we are not inclined to entertain the instant petition and dispose of the same with liberty to the petitioner to approach DRAT by way of an appeal for seeking redressal of their grievances, if so advised.

8. The Writ Petition stands disposed of.

9. All the pending miscellaneous application(s), if any, are also disposed of.

(SANJIV BERRY)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

Dated: 23.09.2025
Gyan

- | | | |
|-----|----------------------------|--------|
| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |