



CWP-13714-2022

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

CWP-13714-2022

Date of decision: 03.11.2025

DR.KULDIP KUMAR RAJPAL**....PETITIONER****Versus**

**EDELWEISS ASSET RECONSTRUCTION COMPANY LIMITED
AND ORS** **...RESPONDENTS**

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

Present: - Mr. Narender Pal Bhardwaj, Advocate for the petitioner.

Mr. Harsh Chopra, Advocate for respondent No.1.

Mr. Rakshit Gupta, Advocate for
Mr. Rakesh Gupta, Advocate
for respondents No.2 to 4-Bank.

Mr. Neeraj Gupta, Addl. A.G. Haryana.

SHEEL NAGU, C.J. (Oral)

Challenge in this petition, filed by the auction-purchaser, is to the possession notice/letter dated 20.01.2022 (Annexure P-1) issued u/s 13(4) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short SARFAESI Act), on various grounds.

2. After hearing the submissions made by learned counsel for the rival parties at length, this Court is of the considered view that a large number of disputed questions of fact are involved in the present case, which cannot be gone into while exercising writ jurisdiction.



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3. It is unfortunate to note that this petition has been pending for more than three years, and the interim order restraining the respondents from dispossessing the petitioner from the secured asset was passed on 11.07.2022 and continues to remain in force till date.

4. The Apex Court has come down very heavily on the High Courts on account of repeated instances of writ jurisdiction invoked in SARFAESI matters. **(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)).**

5. This Court, in view of the above, would not like to enter into the merits of the petition and, therefore, relegates the petitioner to avail alternative remedy available under law before the DRT and thereafter before the DRAT. If such remedy is availed within a period of 30 days, the same shall be entertained on merits without the same being dismissed on limitations alone.

6. Interim relief, granted, in the present petition, shall continue till DRT takes fresh decision on the question of interim relief, provided the petitioner approaches DRT within 30 days, failing which the interim relief shall lose its effect. It is made clear that if petitioners approach 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 petitioner. We further make it clear that the

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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.

7. Accordingly, the writ petition stands disposed of with aforesaid liberty without commenting on merits, without cost.

(SHEEL NAGU)
CHIEF JUSTICE

03.11.2025
kanika

(SANJIV BERRY)
JUDGE

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