

2025.11.12 15:53:12-JB



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

CWP-14905-2018 (O&M)

Date of decision : 10.11.2025

Kanwaljit Kaur and others

.....Petitioners

Versus

Bank of Baroda and others

.....Respondents

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

Present: Mr. Narinder Kumar Vadehra, Advocate,
for the petitioners.

Mr. Gaurav Goel, Advocate,
for the respondent-Bank.

Ms. Apurva Walia, Advocate,
for respondent No.3.

SHEEL NAGU, CHIEF JUSTICE (Oral)

1. The petitioners, who claim themselves to be owners of the property, which is allegedly mortgaged in favour of respondent No.1-bank, are assailing various recourses adopted by the respondent-bank u/s 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short SARFAESI Act), including order dated 13.11.2017 (Annexure P-9) and notice dated 19.04.2018 (Annexure P-10).

2. 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,

2002 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).

3. From the averments in the petition, it does not appear that the petitioners have availed the statutory alternative remedy of approaching the DRT and/or DRAT. On being asked, as to why the petitioners have not approached the DRT, especially when disputed questions of fact regarding title of the property are being raised, learned counsel for the petitioners is unable to satisfy this Court.

4. The dispossession of the petitioners has been protected ever since the Court took cognizance of this matter as early as 01.06.2018, and the said interim order appears to be continuing till date

5. In view of above and the ratio laid down by Apex Court in **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)**, this Court refrains from exercise of jurisdiction under Article 226 of Constitution.

6. Accordingly, the petitioners are relegated to avail the appropriate statutory remedy under the SARFAESI Act before the DRT and thereafter, before DRAT. In case the petitioners

prefer an application under Section 17 of SARFAESI Act within a period of 30 days from today along with copy of this order, the same shall be considered and decided on its own merits, without being dismissed on limitation alone.

7. The interim relief granted in the present petition, shall continue till DRT takes fresh decision on the question of interim relief, provided the petitioners approach 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 petitioners. We further make it clear that the 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.

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

8.1. Pending applications, if any, also stand disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(SANJIV BERRY)
JUDGE

November 10, 2025
Ajay Prasher

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