IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-18248-2022 (O&M)
Reserved on: 29.09.2025
Pronounced on: 17.12.2025
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Whether only operative part of the judgment is pronounced or the full Judgment is pronounced. ***Full Judgment***

M/S SHAM LAL AND BROS. AND OTHERS

...PETITIONERS

VS.

AUTHORIZED OFFICER, PUNJAB AND SIND BANK AND ANOTHER

... RESPONDENTS

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

Present: - Ms. Jyoti Sareen, Advocate, for the petitioners.

Mr. Anant Bir Singh Sidhu, Advocate for respondents.
(Through Video Conferencing)

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SANJIV BERRY, J.

1. By way of the instant petition the petitioners have sought issuance of writ in the nature of certiorari seeking quashing of the letters Annexure P-26 dated 28.06.2021 and Annexure P-30 dated 18.10.2021, issued by respondent No.2 Bank whereby benefits of the relief package have been denied by the Bank to the petitioners and have also sought writ in the nature of mandamus directing the respondents to grant the petitioner the benefits of the scheme under the RBI circular and also to quash the demand notice Annexure P-20 dated 15.04.2021 possession notice Annexure P-27 and 28 dated 04.09.2021 and Annexure P-33 dated 06.08.2022 issued by respondent No.1 against the principles of law and also in violation of the directions given by the RBI from time to time.

2. It is the case of the petitioner in nut shell that petitioner No.1 firm was granted Cash Credit Limit by the respondent Bank in the year 2000. It is averred that the petitioner maintained good track record and had been regularly maintaining the accounts, however, on account of Covid-19 Pandemic the business of the petitioner came to standstill. Various packages were granted by the Government as well as RBI, however, despite the petitioner being lawfully entitled to avail the same, the benefit thereof was declined by the respondents in an arbitrary and illegal manner, in utter violation of the scheme. It is further alleged that the petitioner No.1 also falls under MSME circular and is entitled to the benefit thereof, which has been wrongly denied vide the impugned letters by the respondent Bank, which has unauthorizedly initiated the proceedings by issuing notice under Section 13(2) and 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as SARFAESI Act), hence the petition.

3. Upon issuance of notice of motion vide order dated 23.08.2022, the respondent Bank was also restrained from taking any coercive steps against the mortgaged properties of the petitioner till next date of hearing. The petition was contested by the respondent Bank.

4. We have heard learned counsel for the parties and perused the record.

5. Learned counsel for the petitioner *inter alia* contended that the petitioner being duly covered under MSME Scheme had availed the Cash Credit Limit granted by the respondent Bank in the year 2000 and had been regularly maintaining the account with good track record till the year 2020, but due to influx of Covid-19 Pandemic the business of the petitioner came to

standstill. She contends that despite the Government and RBI issuing various beneficial schemes for such like units, the respondent Bank declined to grant the benefits thereof to the petitioners by acting in an arbitrary manner and declared the account of the petitioners as Non-performing Asset (NPA) followed by issuance of notice under Section 13(2) and 13(4) of the SARFAESI Act (Annexures P-20, P-27, P-28 and P-30) in a total illegal and arbitrary manner. He contends that the respondent bank had acted in an illegal manner in declaring the account of the petitioner as Non-performing Asset (NPA) and later initiated SARFAESI proceedings by issuance of aforesaid notices, hence the said notices are liable to be set aside.

6. On the other hand, the learned counsel for the respondent Bank has assailed these arguments by contending that the petitioners failed to comply with the schedule structure of maintaining the Cash Credit Limit leading to their account being declared as NPA and initiation of proceedings under SARFAESI Act. He submits that the request of the petitioners for availing benefits of the Scheme was rightly rejected since they were not found eligible for restructuring Scheme of the RBI, in accordance with law and no illegality has been committed by the respondent Bank. He submits that the petitioners in the present petition have primarily challenged the proceedings initiated by the respondent Bank under Section 13(2) and 13(4) of the SARFAESI Act for which Statutory efficacious remedy is already provided under the provision of the Act to approach the Debt Recovery Tribunal for redressal of their grievance and therefore, the petitioner cannot be permitted to pursue the instant petition.

7. Considering the respective submissions addressed by learned counsel for the parties and perusing the record, there is no dispute regarding the

factual aspect that the petitioner No.1 through its partners petitioner No.2 and 3, had availed Cash Credit Limit from the respondent Bank in the year 2000. Further, as there had been non adherence to the schedule of the payment leading to the account of the petitioners being declared NPA on 30.11.2020 by the respondent Bank. Thereafter, the proceedings under Section 13(2) followed by Section 13(4) of the SARFAESI Act, were initiated vide demand notice dated 15.04.2021(Annexure P-20), possession notices dated 04.09.2021 (Annexure P-27 and 28) and dated 06.08.2022 (Annexure P-33).

7.1 The petitioners then preferred objections dated 11.06.2021(Annexure P-21) to the notice under Section 13(2), which were rejected vide letter dated 22.06.2021 (Annexure P-24) by the respondent Bank followed by possession notice under Section 13(4) of the Act (Annexure P-27). The petitioner then filed a complaint/request for restructuring of the accounts, which was however rejected on 18.10.2021 being not eligible followed by another possession notice dated 06.08.2022 (Annexure P-33).

8. From the above it transpires that several issues are involved in the present case involving disputed question of fact which cannot be entertained while exercising the jurisdiction under Article 226 of the Constitution of India especially when the alternative remedy of approaching the jurisdictional DRT under Section 17 of the SARFAESI Act, is available to the petitioners, who have raised all such disputed question of facts in the present petition.

8.1 The SARFAESI ACT, 2002 is a complete code in itself providing for the detailed recovery mechanism coupled with the remedies to the aggrieved person/party by approaching the DRT. The Apex Court has consistently held that the High Courts should refrain from interfering in the matters involving SARFAESI proceedings by invoking power under Article 226 of the Constitution of India. Reference in this context be made to the decisions rendered in ***Leelavathi N. and Others vs State of Karnataka and others, 2025 SCC online SC 2253; 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).***

9. Admittedly the petitioner in the present case had not availed the statutory alternative efficacious remedy available to them under Section 17 of the SARFAESI Act, this coupled with the fact that the instant petition involves several disputed questions of fact. Accordingly, in view of the ratio laid down by Apex Court in the decisions *supra,* we refrain from invoking jurisdiction under Article 226 of the Constitution in the present case.

10. In the light of the above discussion, without commenting on merits, the writ petition stands disposed of relegating the petitioners to avail the appropriate statutory remedy under the SARFAESI Act by filing the requisite application before the concerned Debt Recovery Tribunal (DRT) having jurisdiction and thereafter, if so required, before the Debt Recovery Appellate Tribunal (DRAT).

11. In case the petitioner prefers an application under Section 17 of SARFAESI Act within a period of 30 days from the date of order along with

copy of this order, the same shall be considered and decided on its own merits, without being dismissed on limitation alone.

12. Interim relief, so granted, in the present petition, shall continue for a period of 30 days from the date of the order.

13. Disposed of accordingly, with no order as to costs.

(SANJIV BERRY)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

Dated: 17.12.2025
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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No