2025:PHHC:168441-DB

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

CWP-15258-2023 (O&M)
Date of decision : 02.12.2025

Punjab National Bank
.......Petitioner

Versus

State of Haryana and others
.......Respondents

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

Present: Mr. Himanshu Sharma, Advocate,
for the petitioner.

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

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SHEEL NAGU, CHIEF JUSTICE (Oral)

1. This petition has been filed by the petitioner-Bank assailing order dated 28.11.2022 (Annexure P-1) passed by the Collector, Kurukshetra, directing to stop e-auction to be held on 29.11.2022, as per the auction notice dated 09.11.2022 (Annexure P-12), on the ground that the rice mill, in regard to which the petitioner-Bank holds the equitable mortgage, owes Rs.4,83,39,786/- to the Food and Civil Supplies Department, Haryana.

2. It is not disputed at the Bar that the charge of equitable mortgage was created in favour of petitioner-Bank on 29.08.2018, whereas the charge in favour of Food and Civil Supplies Department was created on 24.06.2020, which is after

the crucial date i.e. 24.01.2020 when Section 26E was incorporated in Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act for brevity).

3. For ready reference and convenience, Section 26E of SARFAESI Act is reproduced below:

> "**26E. Priority to secured creditors.** - Notwithstanding anything contained in any other law for the time being in force, after the registration of security interest, the debts due to any secured creditor shall be paid in priority over all other debts and all revenues, taxes, cesses and other rates payable to the Central Government or State Government or local authority."
>
> *Explanation.*--For the purposes of this section, it is hereby clarified that on or after the commencement of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), in cases where insolvency or bankruptcy proceedings are pending in respect of secured assets of the borrower, priority to secured creditors in payment of debt shall be subject to the provisions of that Code."

4. From a bare perusal of Section 26E of SARFAESI Act, it is obvious that the security interest of the bank under SARFAESI Act has priority over all other dues, including dues of the State, except of course, dues in cases, where Insolvency and Bankruptcy Code, 2016 has been triggered, which is not the case here.

5. As such, on the date when impugned order dated 28.11.2022 (Annexure P-1) was passed, the bank had prior right over the secured asset, which is the rice mill belonging to respondent No.5. Therefore, the order dated 28.11.2022 (Annexure P-1) passed by the Collecor/District Magistrate,

Kurukshetra, cannot be sustained in the face of clear provision of Section 26E of SARFAESI Act.

6. Consequently, the present petition stands allowed and the impugned order dated 28.11.2022 (Annexure P-1) stands quashed with liberty to the petitioner-Bank to seek re-auction in accordance with law.

7. Pending application(s), if any, also stand disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(SANJIV BERRY)
JUDGE

December 02, 2025
Ajay Prasher

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