

2025.PHHC:157970-DB



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

CWP-23641-2022 (O&M) &
IOIN-CM-16162-2023 in/and
IOIN-CWP-23641-2022
Date of decision : 13.11.2025

Kirna Devi

.....Petitioner

Versus

The Bathinda Central Co-operative Bank Ltd. and another

.....Respondents

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

Present: Mr. Karan Garg, Advocate,
for the petitioner.

Mr. Saurav Khurana, Advocate,
for respondent-Bank.

SHEEL NAGU, CHIEF JUSTICE (Oral)

1. The petitioner has approached this Court challenging the possession notice dated 08.09.2022 (Annexures 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. 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 petitioner has availed the statutory alternative remedy of approaching the DRT and thereafter, before DRAT.

4. 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.

5. The petitioner is relegated to avail the appropriate statutory remedy under the SARFAESI Act before the DRT and thereafter before DRAT. In case the petitioner prefers 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.

6. Interim relief granted in the present petition vide order dated 17.05.2023, shall continue till the DRT takes fresh decision on the question of interim relief, provided the petitioner approaches the DRT within 30 days, failing which the interim relief shall lose its effect. It is made clear that if petitioner

approaches 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 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. Amount of Rs.5 Lakhs, in the shape of bank draft, had been deposited with the Registrar General of this Court pursuant to the order passed by this Court on 19.04.2023, which was later converted into an FDR. Presently, the said FDR is lying in possession of the Registrar General of this Court.

8. The aforesaid amount, in the shape of FDR, be returned to learned counsel for the bank, to be adjusted in the loan account.

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

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

IOIN-CM-16162-2023

As per office note dated 19.03.2024, due to inadvertence the case number, in the order dated 14.03.2024, has been typed as **CWP-23866-2023** instead of **CWP-23641-2022**.

The said mistake being clerical one, is rectified and case number in the order dated 14.03.2024 be read as **CWP-23641-2022**.

IOIN stands disposed of accordingly.

(SHEEL NAGU)
CHIEF JUSTICE

November 13, 2025
Ajay Prasher

(SANJIV BERRY)
JUDGE

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