2025:PHHC:156469-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 10.11.2025

1. CWP-21619-2023 (O&M)

Vinod Kumar

.......Petitioner

Versus

Housing Development Finance Corporation Limited and others

.......Respondents

2. CWP-24236-2023 (O&M)

Sunil

.......Petitioner

Versus

Can Fin Homes Ltd. and another

.......Respondents

3. CWP-16008-2024 (O&M)

Sanjay Kumar

.......Petitioner

Versus

Shubham Housing Development Finance Company Limited and others

.......Respondents

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

Present: Mr. Abhinav Aggarwal, Advocate,
for the petitioner(s).
(Through Video Conferencing).

Mr. Nitin Grover, Advocate,
for the respondents (in CWP-24236-2023)
(Through Video Conferencing)

Mr. Sahil Khunger, Advocate,
for respondent Nos.1 to 3 (in CWP-21619-2023).

Mr. Sharik Minhas, Advocate,
for Mr. K.P.S. Dhillon, Advocate,
for respondent Nos.1 to 3 (in CWP-16008-2024).

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SHEEL NAGU, CHIEF JUSTICE (Oral)

1. This order shall dispose of aforesaid three petitions filed by petitioners-borrowers (Vinod Kumar, Sunil and Sanjay Kumar) challenging the notices dated 11.09.2019 & 14.12.2019 (in CWP-21619-2023), 15.07.2023 & 19.09.2023 (in CWP-24236-2023) along with notices dated 22.03.2024 & 04.06.2024 (in CWP-16008-2024) (Annexures P-3 and P-4 respectively) issued u/ss 13 (2) and 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 petitioners have availed the statutory alternative remedy of approaching the DRT and thereafter, before DRAT.

4. However, learned counsel for the petitioner(s) has raised several grounds, including that the outstanding loan is less than Rs.20 Lakhs, for which, he has relied upon the notifications dated 24.02.2020 and 12.02.2021 (Annexures P-1 and P-2) issued by the Ministry of Finance, Department of Financial Services.

5. On the other hand, learned counsel for the respondent-bank urges that the total outstanding due in three loan accounts is more than Rs.20 Lakhs.

6. The aforesaid by itself is disputed question of fact, which is open for the DRT to be decided.

7. 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.

8. Accordingly, this Court declines interference and relegates the petitioners 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.

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

9.1. Pending application(s), 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