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**103 (24 cases)**

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

**1.**

**CWP-36349-2019 (O&M)**

RAJESH KUMAR GUPTA

....Petitioner

Versus

RESERVE BANK OF INDIA AND OTHERS

...Respondents

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**2.**

**CWP-36351-2019 (O&M)**

BHIMSAIN CHAWLA

....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS

...Respondents

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**3.**

**CWP-36374-2019 (O&M)**

BABITA GOYAL

....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS

...Respondents

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**4.**

**CWP-36380-2019 (O&M)**

MASOOD WAHAB

....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS

...Respondents

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**5.**

**CWP-36387-2019 (O&M)**

RAM NARESH SOLANKI

....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS

...Respondents

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**6.** **CWP-36399-2019 (O&M)**

SUNIL KUMAR SRIVASTAVA ....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS ...Respondents

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**7.** **CWP-36400-2019 (O&M)**

RITA CHAWLA ....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS ...Respondents

******

**8.** **CWP-36402-2019 (O&M)**

GAUTAM JAIN ....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS ...Respondents

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**9.** **CWP-36404-2019 (O&M)**

JITENDER KUMAR ....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS ...Respondents

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**10.** **CWP-36405-2019 (O&M)**

RANUPRIYA TIWARI ....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS ...Respondents

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**11.** **CWP-36414-2019 (O&M)**

DRAUPADI DEVI ....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS

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...Respondents

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**12.**

**CWP-36420-2019 (O&M)**

GUNJITA GANGESH

....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS

...Respondents

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**13.**

**CWP-36424-2019 (O&M)**

MUKESH BHATT

....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS

...Respondents

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**14.**

**CWP-36427-2019 (O&M)**

ROHIT ARORA

....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS

...Respondents

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**15.**

**CWP-36429-2019 (O&M)**

ABHISHEK CHAWLA

....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS

...Respondents

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**16.**

**CWP-36430-2019 (O&M)**

RAJU CHAKRABORTY

....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS

...Respondents

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**17.**

**CWP-36431-2019 (O&M)**

RAHUL MISHRA

....Petitioner

Versus

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**18.**

**CWP-36432-2019 (O&M)**

RENU KAUSHIK

....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS

...Respondents

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**19.**

**CWP-36434-2019 (O&M)**

CHITTOOR SHIVA PRASHAD

....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS

...Respondents

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**20.**

**CWP-36435-2019 (O&M)**

GEETA SHARMA

....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS

...Respondents

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**21.**

**CWP-36453-2019 (O&M)**

AMIT KUMAR

....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS

...Respondents

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**22.**

**CWP-36486-2019 (O&M)**

KUNAL PESHIN

....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS

...Respondents

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**23.**

**CWP-36577-2019 (O&M)**

RATNA RAO

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....Petitioner

Versus

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...Respondents

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**24.**

**CWP-5076-2020 (O&M)**

MUNI RAJ MEENA

....Petitioner

Versus

RESERVE BANK OF INDIA AND ORS

...Respondents

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**Date of decision: 12.11.2025**

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

*****

Present: Mr. R.S.Randhawa, Senior Advocate with
Mr. Karanyog Singh, Advocate and
Mr. Tarranum Madaan, Advocate,
for the petitioners.

Mr. Rajeev Anand, Senior Advocate with
Mr. Vandit Jain, Advocate,
for respondent No.10.

Mr. Neeraj Gupta, Addl. Advocate General, Haryana.

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**SHEEL NAGU, C.J. (Oral)**

1. This common order shall dispose of above stated twenty four (24) petitions as the issue involved in all these petitions is similar. For the sake of brevity, facts are being derived from CWP-36349-2019.

2. This Court vide order dated 20.12.2019 in the present case, observed as under:-

*"Counsel for the petitioner, inter alia, contends that respondent No.5 had availed loan facility from respondent No.2 in January 2015 after mortgaging the land on which respondent No.5 was to build flats*

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*for sale. The petitioner entered into a builder buyer agreement on 11.5.2016 and was allotted flat No.206. It is alleged that the petitioner has made the entire payment of the flat to respondent No.5, partially raising loan from the HDFC Bank after mortgaging his rights in the said flat as a collateral security. The petitioner is also stated to be residing in flat No.206 from the last three years but on 11.4.2018, he received a notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [for short 'the Act'] as per which an amount of Rs.8,61,29,605/- was recalled from respondent No.5, giving the description of the secured asset which also includes flat No.206 occupied by the petitioner. The petitioner along with similarly situated other flat owners filed CWP-16979-2018 before this Court in order to challenge the notice dated 11.4.2018. The said writ petition was disposed of on 16.1.2019 with a direction that the petitioners would submit their individual details/comprehensive representation along with supporting documents/material to substantiate their claim regarding the payment made by them, clearing their outstanding dues, within a period of three months from the date of receipt of certified copy of the order passed by this Court and the respondent-bank was directed to examine the representation on individual basis after affording an opportunity of hearing to the representationists and by passing a speaking order in accordance with law. In the said order, it was also observed that if there are unoccupied flats which are yet to be sold, the respondent-bank would be entitled to sell those flats to recover its dues.*

*Apropos, the petitioner filed representation (Annexure P-8) in which it was clarified that the petitioner has not taken any loan from*

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*respondent No.5 rather the loan was obtained from the HDFC Bank and has paid the entire dues to the builder, therefore, his flat is not under mortgage of respondent No.5 but is mortgaged with HDFC bank as a collateral security. It is further averred in the said representation that respondent No.5 had also given PTM [permission to mortgage] enabling the petitioner to take loan from the HDFC Bank Limited. Thus, the grievance of the petitioner is that he has been kept in dark by the builder/respondent No.5 about the fact that it has not only mortgaged the land underneath the flats but also the flat of the petitioner.*

*Be that as it may, the representation of the petitioner has been rejected by respondent No.2 on 10.7.2019 without looking into the aforesaid facts and circumstances and observing that no money paid by the petitioner has come to the account of respondent No.2.*

*Counsel for the petitioner has submitted that the petitioner has discharged his liability of making the payment of the property purchased and is not concerned as to whether the said amount has been further transferred by his vendor to the lender/financial institution/respondent No.2. It is, thus, submitted that the petitioner has been defrauded by respondent No.5 for which respondent No.2 should not be allowed to take penal action of taking possession of the flat which is occupied by him since long. In support of his contention, he has relied upon a decision of the Supreme Court rendered in* ***Writ Petition (C) No.940/2017*** *titled as* ***"Bikram Chatterji and others Vs. Union of India and others"*** *decided on 23.7.2019."*

3. A bare perusal of Annexure P-8A dated 10.07.2019 reveals that after discussing the facts pertaining to the case, respondent No.2 failed to assign any reasons as mandated by Coordinate Bench of this Court vide order dated

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16.01.2019 in **CWP-14889-2018 titled as 'Sandeep Dodhaan and others vs. Canara Bank and others'**.

4. It is all the more essential that when a judicial authority directs an executive authority to decide the matter, it is incumbent upon the competent authority to pass a speaking order.

4.1 It is well settled that reasons are the heartbeat of every order which entails adverse consequences **(Please see: Kranti Associates (P) Ltd. vs. Masood Ahmed Khan (2010) 9 SCC 496; Basudev Dutta vs. The State of West Bengal and others, 2024 SCC Online SC 3616).**

4.2 A bare perusal of the impugned order dated 10.07.2019 (Annexure P-8A) passed by respondent No.2 makes it obvious that the reasons are missing from the said order, and therefore it is a classic example of a non-speaking order.

5. In view of the above, it would be appropriate that the matter be remitted to respondent No.2 to be decided again.

5.1 The loan account in question has now been assigned by respondent No.2-Indiabulls Housing Finance Limited in favour of respondent No.10-Assets Care and Reconstruction Enterprise (ACRE) with effect from 26.04.2021, and therefore, the direction is now issued to respondent No.10 to pass a speaking order in terms of judgment of Coordinate Bench of this Court passed in the case of **Sandeep Dodhaan and others (supra)** for deciding the representation (Annexure P-8) of the petitioner.

5.2 Let the aforesaid exercise be completed within a period of thirty (30) days from the date of receipt of certified copy of this order.

6. Since this Court had protected the petitioners-home buyers vide interim order dated 20.12.2019, which continues to subsist till date, the same

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shall continue to protect the petitioners till a fresh decision is taken by respondent No.10.

6.1 It is further made clear that in case the petitioners are aggrieved by any of the actions taken by the Bank/Financial Institution under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, then the same can very well be assailed before the Debts Recovery Tribunal/Debts Recovery Appellate Tribunal, in accordance with law.

7. With the aforesaid directions, petitions stand disposed of.

8. Pending applications, if any, shall stand disposed of accordingly.

**(SHEEL NAGU)**
**CHIEF JUSTICE**

**(SANJIV BERRY)**
**JUDGE**

**12.11.2025**
*mohit goyal*

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

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