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(2026) 02 P&H CK 1822

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 2901 Of 2020 (O&M)

Anita — APPELLANT

Vs

Punjab National Bank & Another — RESPONDENT

Date of Decision : 17-02-2026

Acts Referred:

Constitution Of India, 1950 — Article 226
Securitization And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 — Section 14, 17

Citation : (2026) 02 P&H CK 1822

Hon'ble Judges : Sheel Nagu, CJ;Sanjiv Berry, J

Bench : Division Bench

Advocate : Pavan Malik, C.S. Pasricha, Saurabh Sudhir

Final Decision : Disposed Of

Judgement

Sheel Nagu, CJ

1. This petition has been pending for more than five years and this Court would not like to keep it pending any further, having heard the learned counsel for rival parties at length. This Court is of the considered view that the only prayer made in the present petition is for direction to the respondent/Bank to accept the One Time Settlement (OTS) proposal submitted by the petitioner/borrower vide Annexures P-5, P-8, and P-11.

2. It is not disputed at the Bar that the secured asset was put to auction on four occasions, but the same could not fructify.

3. The present petition involves a large number of disputed questions of fact, which ought not to be gone into while exercising writ jurisdiction under Article 226 of the Constitution of India, especially when the petitioner has not availed the alternative statutory remedy of challenging the order dated 19.09.2018 passed u/s 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short ‘SARFAESI Act’) by the

District Magistrate, Rewari, which came to be issued during the pendency of the present petition.

4. This Court, while taking cognizance of the matter vide order dated 10.11.2020, recorded the undertaking of the learned counsel for respondent/ Bank that physical possession of the secured asset would not be taken. The said undertaking appears to have continued to operate till date.

5. Another development during the pendency of the petition is that the petitioner/ borrower entered into an agreement to sell dated 18.02.2020 (Annexure P-13), placed on record along with CM No. 11792 of 2020. An advance amount of Rs.24,00,000/- paid by the proposed purchaser under the said agreement was directly deposited with the respondent/Bank (Annexure P-14).

5.1 However, learned counsel for the respondent/Bank disputes the aforesaid submissions made by learned counsel for petitioner.

5.2 Learned counsel for respondent/Bank, however, submits that if required, the Bank is ready and willing to refund the amount of Rs.24,00,000/-received as advance money from the proposed purchaser.

6. This kind of arrangement, devised by the petitioner by entering into an agreement to sell in respect of a secured asset which stands charged by way of equitable mortgage in favour of the respondent/Bank, is wholly unheard of and foreign to the concept of SARFAESI Act.

7. However, without expressing any opinion on the merits of the case, this Court declines to entertain the matter and leaves it open to the jurisdictional Debts Recovery Tribunal (for short, 'DRT') to adjudicate upon the issues raised by the petitioner herein, in accordance with law.

8. Accordingly, the petition is disposed of with liberty to the petitioner to file a fresh application u/s 17 of the SARFAESI Act, challenging the order passed u/s 14 of the SARFAESI Act. The undertaking given by the learned counsel for respondent/Bank not to take physical possession of the secured asset shall continue for a period of 30 days, whereafter the jurisdictional DRT shall take its own call regarding continuance of the interim protection or not.

9. It is clarified that this Court has not expressed any opinion on the merits of the case, and therefore, the jurisdictional DRT shall be at liberty to continue or discontinue the interim order, depending upon the facts of the case, without being influenced by the fact of petitioner having approached this Court by way of CWP No. 2901 of 2020 or this Court having passed the present order.

10. If the petitioner approaches the jurisdictional DRT within a period of 15 working days from today, the obstacle of limitation will not come in the way of adjudication of the petitioner's case by the DRT.

11. All pending civil miscellaneous application(s) if any, also standdisposed of.

