(2021) 02 P&H CK 0130

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 3266 Of 2021

Jullundur Engineering Company	APPELLANT
Vs	
Debts Recovery Tribunal-I, Chandigarh, And Others	RESPONDENT

Date of Decision : 12-02-2021

Acts Referred:

Securitization And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 — Section 13(4), 17(1), 17(5)

Citation : (2021) 02 P&H CK 0130

Hon'ble Judges : Sanjay Kumar, J;Archana Puri, J

Bench : Division Bench

Advocate : Rahul Sharma-I

Final Decision : Disposed Of

Judgement

Sanjay Kumar, J

The petitioner concern seeks a direction to the Debts Recovery Tribunal-I, Chandigarh (for short, 'the Tribunal'), to take up SA No. 486-2017, titled

'M/s Jullunder Engineering Company and another versus Andhra Bank and others', filed by it on 09.10.2017 and IA No. 138 of 2020 filed therein on

01.07.2020, and to decide the same forthwith in accordance with law.

The petitioner concern filed the subject securitization application before the Tribunal under Section 17(1) of the Securitization and Reconstruction of

Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), aggrieved by the action initiated by the Andhra

Bank, the predecessor-in-interest of the Union Bank of India, under Section 13(4) of the SARFAESI Act. The said application was however

dismissed on 28.03.2017 by the Tribunal on the ground that it was time-barred. However, the appeal filed by the petitioner concern against such dismissal was allowed by the Debts Recovery Appellate Tribunal, Delhi, vide order dated 23.04.2019, and the Tribunal was directed to re-adjudicate

the matter.

While so, the Bank put the secured assets to sale in November, 2019. The complaint of the petitioner concern is that its stocks are still lying in the

premises of the secured assets, which were hitherto in its possession as a tenant. IA No. 138-2020 was thereupon filed by the petitioner concern in

the pending case seeking a direction to the Bank to hand over possession of the said stocks.

Complaining of inaction on the part of the Tribunal as regards the main case as well as the application filed therein, the petitioner concern is before this

Court.

In the light of the order passed hereunder, this Court sees no necessity to put the respondents on notice or afford them an opportunity of hearing. All

the more so, as this Court does not propose to go into the merits of the matter or venture any opinion thereon.

Section 17(5) of the SARFAESI Act stipulates that any application made under Section 17(1) thereof should be dealt with by the Debts Recovery

Tribunal as expeditiously as possible and disposed of within sixty days from the date of such application. The proviso thereto states to the effect that

the Debts Recovery Tribunal may, from time to time, extend the said period for reasons to be recorded in writing, so, however, that the total period of

pendency of the application does not exceed four months from the date of making of such application under Section 17(1) of the SARFAESI Act.

Going by the aforestated statutory mandate, even if it is to be treated that the subject application filed by the petitioner concern relates to the year

2019 and not to the year 2017, the Tribunal has clearly failed to adhere to the temporal mandate of the provision. It is not open to the Tribunal to

blithely ignore the requirements of the statute under which it is operating. In the event the Tribunal is not in a position to dispose of the main case,

priority should at least be given to the interlocutory applications filed therein. Valuable property rights of the parties would be at stake and delay in

such matters may have an irreversible adverse impact upon their interests.

In view of the above discussion, the writ petition is disposed of directing the Tribunal to abide by the statutory mandate of Section 17(5) of the

SARFAESI Act and endeavour to dispose of SA No. 486-2017 expeditiously in terms thereof or pass appropriate orders on the interlocutory

application in IA No. 138-2020 filed therein in July, 2020 expeditiously and preferably, within two weeks from the date of receipt of a copy of this

order.

No order as to costs.

