
(2025) 06 UK CK 0527

In the Uttarakhand High Court

Case No : Writ Petition No. 1378 Of 2025 (M/S)

Nafees And Another

APPELLANT

Vs

Punjab National Bank And Another

RESPONDENT

Date of Decision : 20-06-2025

Acts Referred:

Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 — Section 23, 26

Citation : (2025) 06 UK CK 0527

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Advocate : Rajveer Singh, Siddharth Jain

Final Decision : Disposed Of

Judgement

Ravindra Maithani, J

1. By means of the instant petition, the petitioners seek the following reliefs:-

“(a) Issue a writ, order or direction in the nature of Certiorari to quash the recovery letter dated 28.04.2025, issued by the respondent containing Annexure No 3 to the writ petition issued by the respondent No.1 (Bank) and further proceeding of auction sale opnly to the property of the petitioners mentioned in the registered sale deed dated 01.02.2021.

(b) Issue a writ, order or direction in the nature of mandamus directing the Respondent Bank not to auction for sale the property of the petitioners, until the Respondent No.1 first of all to auction the mortgaged property of the seller (respondent No2) and recover the entire loan amount only to the property of seller (respondent No 2) & if the respondent bank failed to recover the entire loan amount from auction sale of the property of the seller (respondent No 2) than the respondent No 1 Bank be permitted to auction for sale the property of the petitioners.

(c) Issue a writ, order or direction in the nature of mandamus directing the Respondent Bank to decide the representation dated 05.05.2025 (containing Annexure no 4) to the writ petition.

(d) Issue a writ, order or direction which the Hon'ble High Court think appropriate in the fact and circumstance of the case"

2. Heard learned counsel for the parties and perused the record.

3. Learned counsel for the petitioners would submit that the petitioners purchased a property from the respondent no.2 and the property has already been entered into their names. But now, in a proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the respondent no.1/Punjab National Bank is proceeding to auction the property.

4. Learned counsel for the respondent no.2/Punjab National Bank would submit that after due compliance of the procedure, loan was sanctioned; the documents were verified by the respondent no.1/Punjab National Bank; the mortgage is registered under the Central Registry of Securitisation Asset Reconstruction and Security Interest of India ("the CERSAI Act") under Section 23 of the CERSAI Act and under Section 26 of the CERSAI Act, it may be inspected by any person.

5. Learned Counsel for the petitioners would submit that only request of petitioners make is that the borrower's other property may be auctioned before the property, which have been purchased by the petitioners, is put to auction. He would submit that they have given a representation to the respondent no.1/Punjab National Bank. He requests that the respondent no.1/Punjab National Bank may be directed to consider their representation within a stipulated time.

6. Learned counsel for the respondent no.1/Punjab National Bank would submit that the auction notice that was put to challenge in the instant matter, has rendered infructuous because the auction never took place. He submits that the respondent no.1/Punjab National Bank will consider the representation (Annexure No.4 to the writ petition), given by the petitioners within a period of four weeks.

7. The Court takes on record the statement given by the respondent no.1/Punjab National Bank.

8. Instant petition is disposed of with the directions to the respondent no.1/Punjab National Bank to take a decision on the representation of the petitioner (Annexure No.4 to the writ petition) within a period of four weeks from today.