



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

CWP-34636-2024

Date of decision : 29.08.2025

Ashish Kumar

.....Petitioner

Versus

ICICI Bank and another

.....Respondents

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

Present: Mr. Abhishek Das, Advocate, for
Mr. Ashish Aggarwal, Advocate, for the petitioner.

Mr. Rahul Garg, Advocate, and
Mr. D.K. Singal, Advocate, for the respondents.

SHEEL NAGU, CHIEF JUSTICE (Oral)

1. The petitioner, who is borrower, has approached this Court challenging possession notice dated 16.11.2024 (Annexure P-2) issued by the respondent – Bank under Section 13 (4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, 'SARFAESI Act'), on various grounds.

2. This Court, on 23.01.2025, had referred the matter to Mediation and Conciliation Centre to explore the possibility of settlement between the petitioner – borrower and the respondent – Bank.

3. Today, learned counsel for the respondent – Bank informs that he has instructions to say that the Bank is not ready and willing to enter into settlement with the petitioner – borrower, since the petitioner, instead of settling his loan account, is more interest in rescheduling the loan amount.

4. 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 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).

5. From the averments made in the petition, it does not appear that the petitioner has availed statutory alternative remedy of approaching the DRT and thereafter, before DRAT.

6. Accordingly, in view of the aforesaid clear statement made by learned counsel for the respondent – Bank, and the ratio laid down by Apex Court in **United Bank of India Vs. Satyawati Tondon, (2010) AIR SC 3413 (Paras 17, 27); Phoenix ARC Private Limited Vs. Vishwa Bharati Vidya Mandir and others, (2022) 5 SCC 345 (Paras 10, 21); and PHR Invent Educational Society Versus UCO Bank and others, 2024 (6) SCC 579 (Paras 22 to 41)**, this Court refrains from exercising jurisdiction under Article 226 of the Constitution.

7. The petitioner is relegated to avail appropriate statutory remedy under the SARFAESI Act before the DRT and thereafter before DRAT. In case the petitioner prefers 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.

8. Interim relief, if granted in the present petition, shall continue till the DRT takes fresh decision on the question of interim relief, provided the petitioner approaches DRT within 30 days, failing which the interim relief shall lose its effect. It is made clear that if petitioner approaches the Tribunal



within the prescribed stipulated time, then this order shall not prejudice the mind of Tribunal while deciding the question of interim relief, if admissible to the petitioner. We further make it clear that the Tribunal shall decide the request for interim relief strictly on merits of the matter, without being influenced by the fact of petitioner having approached this Court or this Court having passed the present order.

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

(SHEEL NAGU)
CHIEF JUSTICE

(SANJIV BERRY)
JUDGE

August 29, 2025
narotam

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