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M/s. Shree Ganesh Woolen Mills, Amritsar and Others Vs Punjab National Bank

Civil Writ Petition No. 17437 of 2009

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Nov. 13, 2009

Acts Referred:
Constitution of India, 1950 â€" Article 226#Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) â€" Section 13(2), 13(3), 13(4), 17

Hon'ble Judges: Satish Kumar Mittal, J

Bench: Single Bench

Advocate: Rohit Suri, for the Appellant;

Final Decision: Dismissed

Judgement

Satish Kumar Mittal, J.
M/s.Shree Ganesh Woolen Mills, villa ge Naueshera Nangli, Amritsar and its partners have filed the instant petition

under Article 226 of the Constitution of India for quashing the two demand notices dated 02.09.2009 (Annexure P8) and 20.10.2009 (Annexure

P9), issued u/s 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter

referred to as "the Act") as well as the possession notice dated 03.11.2009 (Annexure P11), issued u/s 13(4) of the Act.

2. When the petitioner firm did not repay the loan amount in terms of the agreement and willfully defaulted in payment, its account was declared as

NPA on 28.08.2009, and thereafter, the respondent bank proceeded under the provisions of the Act and issued demand notices dated

02.09.2000 and 20.10.2009 u/s 13(2) of the Act, which were duly served on the petitioner firm. The petitioners filed objections dated

03.11.2009 (Annexure P10) u/s 13(3) of the Act, and thereafter the respondent bank issued the possession notice dated 03.11.2009 (Annexure

P11) u/s 13(4) of the Act.

3. After hearing counsel for the petitioner, I am of the opinion that against the impugned notice (Annexure P11), the petitioners have the remedy of

appeal before the Debts Recovery Tribunal u/s 17 of the Act, which has not been availed by them and the instant petition has been filed. In para

32 of the writ petition, it has been stated that the petitioners have filed the petition, because the respondent bank is going to take possession of the

secured assets on the basis of the letter dated 03.11.2009, without issuing a possession notice. This fact is not correct. The letter dated

03.11.2009 is a possession notice issued by the respondent bank u/s 13(4) of the Act and against the said letter/action/order, the petitioners have

the remedy to file appeal before the Debts Recovery Tribunal u/s 17 of the Act. The pleas which have been raised in this petition can be raised by

the petitioners before the Debts Recovery Tribunal. Therefore, in view of the availability of the effective remedy of appeal against the impugned

action of the respondent bank, I am not inclined to entertain this petition.

Dismissed.