

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****129****CWP-24005-2024****DATE OF DECISION: 26.09.2024****SATPAL**

... Petitioner (s)

Versus

J M FINANCIAL ASSET RECONSTRUCTION COMPANY LIMITED

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Mr. Govind Chauhan, Advocate for the petitioner.

ANUPINDER SINGH GREWAL, J. (ORAL)

Learned counsel for the petitioner submits that petitioner had taken a loan of Rs.3,92,461/- in the year 2018. Notice under Section 13(2) of the SARFAESI Act, was issued on 01.11.2023 for Rs.5,38,058/-. He submits that the petitioner has preferred SA bearing Diary No.2115/2024 (Reference No.8274308159) before the DRT-II, but as it is not functioning, the same is not being heard. The petitioner had borrowed a small amount and he is being dispossessed from the residential house. He further submits that the petitioner be protected till DRT-II resumes its functioning.

2. Heard.

3. The petitioner has preferred SA before the DRT-II and due to its non-functioning, the same is not being taken up for hearing. The petitioner or a litigant cannot be left remediless especially when the same has been provided by a Statute. We draw our support from the order of the Supreme Court dated

16.12.2021 in the case of ‘State Bar Council of Madhya Pradesh Vs. Union of India’ Special Leave Petition (C) No.10911/2021.

Relevant extract is reproduced herein-below:-

“13. With a view to resolve the problem being faced by the parties, for the time being and purely as a stopgap arrangement, we request the concerned High Court(s) to entertain the matters falling within the jurisdiction of DRTs and DRATs under Article 226 of the Constitution of India, till further orders.

14. We make it clear that once the Tribunal(s) is/are constituted, the matters can be relegated to the Tribunals by the High Court(s).”

4. Consequently, the petition is disposed of with a direction that till the prayer of the petitioner for interim relief is decided by the DRT-II, no coercive steps under the SARFAESI Act, be taken against the petitioner.

5. It is clarified that this Court is not making any comment on the merits of the case including the fact that whether or not the petitioner is in possession of the secured asset.

6. It is further made clear that the petitioner shall not make any effort to delay the proceedings and shall remove the defects in the application, if any, immediately.

(ANUPINDER SINGH GREWAL)
JUDGE

(LAPITA BANERJI)
JUDGE

26.09.2024

SwarnjitS

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|---------------------------|---|----------|
| Whether speaking/reasoned | : | Yes / No |
| Whether reportable | : | Yes / No |