



Punjab National Bank & ors. v. Kurukshetra Automobile Pvt. Ltd. & ors. (SC)
(2022) Law Today Live Doc. Id. 17028

SUPREME COURT OF INDIA

Before: M.R. Shah & Krishna Murari, JJ.

Civil Appeal No. _____ of 2022 Decided on : 12.09.2022

(@ Special Leave Petition (C) No. 10854/2022)

Punjab National Bank & ors. Appellants

Versus

Kurukshetra Automobile Pvt. Ltd. & ors. Respondents

For Petitioner(s):

Mr. Rajesh Kumar Gautam, AOR Mr. Anant Gautam, Adv. Mr. Nipun Sharma, Adv.
Mr. Sachin Singh, Adv. Mr. Vidhur Aluwalia, Adv.

For Respondent(s):

Mr. Rajesh Gupta, Adv. Mr. R.V.S. Chugh, Adv. Ms. Manjula Gupta, Adv. Mr.
Rameshwar Prasad Goyal, AOR

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (54 of 2002), Section 13(2), 17 – Constitution of India, Article 226 -- Insurance claim wrongly transferred by Bank – Default due to wrong Act of Bank -- Plea of -- Challenge to Section 13(2) Notice of SARFAESI Act – Writ jurisdiction -- Alternative remedy – Limitation -- Held, mainly challenged before the High Court was notice u/s 13(2) of the SARFAESI Act, High Court ought not to have entertained the writ petition -- Remedy available to the respondents/ loanee was to initiate proceedings u/s 17 of the SARFAESI Act – Respondents relegated to avail the alternative statutory remedy by way of Section 17 of the SARFAESI Act – When such proceedings are initiated, the same be considered in accordance with law and on its own merits including the case on behalf of the original writ petitioners that nothing was due and payable, if the amount received as insurance claim would not have transferred to the Working Capital Account -- Appeal allowed to the aforesaid extent -- If such proceedings are initiated within a period of four weeks, the same be dealt with without raising the dispute with respect to limitation, however, subject to compliance of other requirements under the Act.

(Para 2-6)

ORDER

Leave granted.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 11-05-2022 passed by the High Court of Punjab and Haryana at Chandigarh in CWP No. 19231/2021 (O&M), the Punjab National Bank and others have preferred the present appeal.

2. The appellant/Bank has initiated proceedings under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act') against the respondents. The respondents herein/original writ petitioners before the High Court challenged the notice under Section 13(2) of the SARFAESI Act before the High Court in a writ petition under Article 226 of the Constitution of India. It was the case on behalf of the respondents that as the Bank illegally transferred the amount received as insurance claim to the CC Account, which was illegally transferred without its consent and, therefore, if the said amount would have been credited in their Account, in that case, nothing was due and



payable and/or the amount claimed in notice under Section 13(2) of the SARFAESI Act was not payable. By the impugned judgment and order, the High Court has interfered with the proceedings under Section 13(2) of the SARFAESI Act and has directed to transfer back the amount received as insurance claim to the Working Capital Account.

3. Having heard learned counsel appearing on behalf of the respective parties and considering the fact that what was mainly challenged before the High Court was notice under Section 13(2) of the SARFAESI Act, the High Court ought not to have entertained the writ petition under Article 226 of the Constitution of India. The remedy available to the respondents was to initiate proceedings under Section 17 of the SARFAESI Act. In the proceedings under Section 17 of the SARFAESI Act, the respondents can very well point out what was their case before the High Court that the amount received as insurance claim could not have been transferred to the Working Capital Account.

4. In that view of the matter and on the aforesaid ground alone, the present appeal is allowed. The impugned judgment and order passed by the High Court passed in exercise of powers under Article 226 of the Constitution Of India is hereby quashed and set aside and the respondents are relegated to avail the alternative statutory remedy by way of Section 17 of the SARFAESI Act and as and when such proceedings are initiated, the same be considered in accordance with law and on its own merits including the case on behalf of the original writ petitioners that nothing was due and payable, if the amount received as insurance claim would not have transferred to the Working Capital Account. The aforesaid plea can be considered by the appellate forum in accordance with law and on its own merits

5. The Appeal is accordingly allowed to the aforesaid extent. No costs.

6. If such proceedings are initiated within a period of four weeks from today, the same be dealt with in accordance with law and on its own merits without raising the dispute with respect to limitation, however, subject to compliance of other requirements under the Act.

Appeal allowed.
