CNR No: PHHC011350982026
2026:PHHC:114778-DB

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP-25589-2026 (O&M)
Date of decision: 18.08.2026

MOHIT SINGLA AND ANOTHER

...PETITIONERS

VS.

AXIS BANK LIMITED AND ANOTHER

... RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE JASGURPREET SINGH PURI
HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Ms. Shelja Sharma, Advocate for
Mr. Sukhbir Singh Sahu, Advocate for the petitioners.

Mr. Samarth Suri, Advocate and
Mr. Rohit Suri, Advoate for
Mr. Sandeep Suri, Advocate for the respondents-Bank.

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<u>SANJIV BERRY, J.</u>

1. The instant Civil Writ Petition under Article 226/227 of the Constitution of India seeking issuance of a writ in the nature of *Certiorari* for quashing of the impugned order dated 30.04.2026 (Annexure P-4) passed by the District Magistrate, Fatehabad, under Section 14(1)/14(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as *'the SARFAESI Act'*), the Demand Notice dated 31.05.2025 issued under Section 13(2), (Annxure P-2), Notice dated 18.09.2025 issued under Section 13(4) (Annexure P-3), Possession notice dated 22.07.2026 (Annexure P-5) of the SARFAESI Act, whereby 21.08.2026 has been fixed for taking physical possession of the residential house of the petitioners.

2. Brief facts arising out the present case are that the petitioner No.1-Mohit Singla, had availed credit facility namely Overdraft Facility amounting to ₹32,10,000/- and a Production Credit (Working Capital) facility of ₹50,000/- totalling to ₹32,60,000/- from the respondent-Bank vide Sanction Letter dated 25.03.2022 (Annexure P-1). The aforesaid Overdraft Facility was secured by way of equitable mortgage of the residential House No. 567/19(21), Property ID-P01000310292, measuring 249 sq. yards, situated at Bhatia Nagar, Tehsil Tohana, District Fatehabad, owned by the petitioners.

2.1 Subsequently, vide letter dated 18.03.2023, the aforesaid credit facility was renewed by Respondent-Bank and enhanced to ₹37,00,000/- at the rate of 10.5% per annum.

2.2 Due to financial difficulties, petitioners could not repay the outstanding installments, and loan account of the petitioners were classified as Non-Performing Asset (NPA) by respondent on 01.05.2025, and SARFAESI proceedings were initiated, hence the petition.

3. Learned counsel for the petitioners submits that petitioner No.1-Mohit Singla, had availed credit facility of ₹32,60,000/- from the respondent-Bank vide Sanction Letter dated 25.03.2022 (Annexure P-1) The aforesaid Credit Facility was secured by way of equitable mortgage of the residential House No. 567/19(21), Property ID-P01000310292, measuring 249 sq. yards, situated at Bhatia Nagar, Tehsil Tohana, District Fatehabad, and thereafter the said facility was extended to ₹37,00,000/- and due to non adherence to financial discipline, the respondent-Bank declared the account of the petitioners as Non-Performing Asset (NPA) and issued Demand Notice dated 31.05.2025 amounting to ₹40,94,867/- under Section 13(2) of the SARFAESI Act (Annexure

P-2). Thereafter petitioners filed objections/representation under Section 13(3-A) of the SARFAESI Act, before respondent-Bank and sought reasonable time to pay the defaulted amount, however the respondent Bank proceeded straightway and issued a Possession Notice dated 18.09.2025 under Section 13(4) of the SARFAESI Act (Annexure P-3).

3.1 She contends that respondent Bank filed an application under Section 14(1)/14(2) of the SARFAESI Act before the District Magistrate, Fatehabad seeking assistance in taking physical possession of the secured asset. He submits that the District Magistrate, Fatehabad, without issuing notice to the petitioners and without an opportunity of being heard, passed the impugned order dated 30.04.2026 (Annexure P-4) whereby the Naib Tehsildar, Tohana had been directed to assist in taking physical possession of the secured asset. He contends that the Naib Tehsildar, Tohana had issued possession notice dated 22.07.2026 whereby 21.08.2026 was fixed as the date for taking physical possession of the secured asset.

3.2 She contends that respondents have failed to respond to the objections filed by the petitioners under Section 13(3-A) of the Act. She contends that as per proviso to Section 13(3-A), the secured creditor is under a statutory obligation to communicate the borrower the reasons for non-acceptance of the objections raised. He contends that the aforesaid impugned action of the respondents is wholly illegal, arbitrary, null and void, and is liable to be set-aside.

3.3 She further contends that though the petitioners have an alternative remedy under Section 17 of the SARFAESI Act before the Debt Recovery Tribunal but the physical dispossession of the petitioners from their residential house is scheduled to take place on 21.08.2026, no efficacious remedy except the filing of a writ petition under Article 226 of the Constitution of India is available to them. Hence prays for acceptance of the writ petition.

4. *Per contra,* learned counsel representing the respondent-Bank submits that the respondents had acted in accordance with the procedure and law while dealing with the loan account and on account of non-adherence of financial discipline the same was correctly declared as Non Performing Asset (NPA). He contends that the Bank had followed the procedure laid down in the SARFAESI Act and had lawfully issued notice under Section 13(2) & 13(4) of the SARFAESI Act. He submits that if the petitioners had any grievance, an alternative remedy of filing Securitization Application before the Debt Recovery Tribunal was available to the petitioners.

5. He further contends that the Hon'ble Supreme Court had repeatedly deprecated the practice of entertaining writ petitions under SARFAESI Act, by the High Courts under Article 226 of the Constitution of India. In this regard, he has referred to the judgment of Hon'ble Supreme Court in ***South India Bank Limited and others versus Naveen Mathew Philip and another, (2023) 17 SCC 311*** and prayed for the dismissal of the instant writ petition on the ground of an alternative remedy being available to the petitioners which they had failed to avail.

6. We have heard respective submissions made by learned counsel for the parties and perused the record.

7. Considering the rival contentions and perusing the record, it transpires that admittedly the petitioners have availed the loan facility from the respondent- Bank and as per averments, the account was declared as Non

Performing Asset (NPA) due to non adherence of the financial discipline and the proceedings under the SARFAESI Act were initiated in the form of issuance of notice under Section 13(2) and 13(4) of the Act.

8. At the very outset, it is worthmentioning that the legislature in its own wisdom has enacted specific legislation in the form of SARFAESI Act to regulate Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest, to provide for a Central database of security interest created on the property rights and for matters connected therewith or incidental thereto.

9. The petitioners have grievance qua the proceedings carried out by the respondent-Bank in the enforcement of security interest by issuance of notices under Section 13(2) and 13(4) of the SARFAESI Act. As per the Scheme laid down by the SARFAESI Act, there are provisions laid down under Section 17 of the Act, providing remedy against the measures to recover secured debts which can be initiated by any person including the borrower aggrieved by any of the measures referred to in Sub-section (4) of Section 13 taken by the secured creditor, before the Debts Recovery Tribunal having jurisdiction.

10. Section 17 of the SARFAESI Act reads as under:-

> ***"17. Application against measures to recover secured debts:-***
> *(1) Any person (including borrower), aggrieved by any of the measures referred to in sub-section (4) of section 13 taken by the secured creditor or his authorised officer under this Chapter, [may make an application along with such fee, as may be prescribed,] to the Debts Recovery Tribunal having jurisdiction in the matter within forty-five days from the date on which such measure had been taken:*
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> *xx xx xx*

11. Admittedly, the petitioners after being aggrieved by the notices under Section 13(2) and 13(4) of the SARFAESI Act, instead of availing the remedy available to them under Section 17 of the SARFAESI Act, filed the instant writ petition under Article 226 of the Constitution of India.

12. It is worth mentioning that maintainability of the writ petition under Article 226 of the Constitution of India, in such a case where the alternative remedy under Section 17 of the SARFAESI Act, a specialized provision is available, is no longer *res-integra*. It has been settled by the Hon'ble Supreme Court in *catena* of judgments that where the remedy is provided under the specialized Act, {Section 17 of the SARFAESI Act in the present case}, then it will not be appropriate for the High Court to exercise the jurisdiction by entertaining a writ petition.

13. The Hon'ble Supreme Court has held, in ***Southern Electricity Supply Co. of Orissa Ltd. versus Sri Seetaram Rice Mill, (2012) 2 SCC 108***, that it should only be for the specialised tribunal or the appellate authority to examine the merits of assessment or even the factual matrix of the case. The relevant portion of the aforesaid judgment is reproduced as under:-

> *"80. It is a settled canon of law that the High Court would not normally interfere in exercise of its jurisdiction under Article 226 of the Constitution of India where statutory alternative remedy is available. It is equally settled that this canon of law is not free of exceptions. The courts, including this Court, have taken the view that the statutory remedy, if provided under a specific law, would impliedly oust the jurisdiction of the civil courts. The High Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India can entertain writ or appropriate proceedings despite availability of an alternative remedy. This jurisdiction, the*

High Court would exercise with some circumspection in exceptional cases, particularly, where the cases involve a pure question of law or vires of an Act are challenged. This class of cases we are mentioning by way of illustration and should not be understood to be an exhaustive exposition of law which, in our opinion, is neither practical nor possible to state with precision. The availability of alternative statutory or other remedy by itself may not operate as an absolute bar for exercise of jurisdiction by the courts. It will normally depend upon the facts and circumstances of a given case. The further question that would inevitably come up for consideration before the Court even in such cases would be as to what extent the jurisdiction has to be exercised.

81. Should the courts determine on merits of the case or should they preferably answer the preliminary issue or jurisdictional issue arising in the facts of the case and remit the matter for consideration on merits by the competent authority? Again, it is somewhat difficult to state with absolute clarity any principle governing such exercise of jurisdiction. It always will depend upon the facts of a given case. We are of the considered view that interest of administration of justice shall be better sub-served if the cases of the present kind are heard by the courts only where they involve primary questions of jurisdiction or the matters which go to the very root of jurisdiction and where the authorities have acted beyond the provisions of the Act. However, it should only be for the specialised tribunal or the appellate authorities to examine the merits of assessment or even the factual matrix of the case."

14. Similarly in ***Nivedita Sharma versus Cellular Operators Assn. of India,(2011) 14 SCC 337***, Hon'ble Supreme Court held that when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained, ignoring the statutory dispensation.

15. In ***South India Bank Limited case (supra),*** it has been held by the Hon'ble Supreme Court that although the power under Article 226 of the Constitution of India to issue writs can be exercised not only for the enforcement of Fundamental Rights but for any other purposes as well, the High Court still has the discretion not to entertain a writ petition and one of the restrictions placed on the power of the High Court is therein an effective alternative remedy is available to the aggrieved person. It would be appropriate to reproduce the relevant portion of the judgment rendered by Hon'ble Supreme Court in ***South India Bank Limited case (supra),*** as under:-

> *"16. We wish to quote with profit a recent decision of this Court in Radha Krishan Industries v. State of H.P. (2021) 6 SCC 771 : (SCC pp. 794-95, paras 25-27)*
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> > *"25. In this background, it becomes necessary for this Court, to dwell on the "rule of alternate remedy" and its judicial exposition. In* ***Whirlpool Corpn. v. Registrar of Trade Marks (1998) 8 SCC 1****, a two-Judge Bench of this Court after reviewing the case law on this point, noted: (SCC pp. 9-10, paras 14-15)*
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> > > *"14. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other purpose".*
> > >
> > > *15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ*

petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field".

26. Following the dictum of this Court in ***Whirlpool Corpn. v. Registrar of Trade Marks [(1998) 8 SCC 1]****, in* ***Harbanslal Sahnia v. Indian Oil Corpn. Ltd. [(2003) 2 SCC 107]****, this Court noted that: (Harbanslal Sahnia case, SCC p. 110, para 7)*

"7. So far as the view taken by the High Court that the remedy by way of recourse to arbitration clause was available to the appellants and therefore the writ petition filed by the appellants was liable to be dismissed is concerned, suffice it to observe that the rule of exclusion of writ jurisdiction by availability of an alternative remedy is a rule of discretion and not one of compulsion. In an appropriate case, in spite of availability of the alternative remedy, the High Court may still exercise its writ jurisdiction in at least three contingencies: (i) where the writ petition seeks enforcement of any of the fundamental rights; (ii)

*where there is failure of principles of natural justice; or (iii) where the orders or proceedings are wholly without jurisdiction or the vires of an Act is challenged. (See **Whirlpool Corpn. v. Registrar of Trade Marks [(1998) 8 SCC 1]**.) The present case attracts applicability of the first two contingencies. Moreover, as noted, the appellants' dealership, which is their bread and butter, came to be terminated for an irrelevant and non-existent cause. In such circumstances, we feel that the appellants should have been allowed relief by the High Court itself instead of driving them to the need of initiating arbitration proceedings."*

27. The principles of law which emerge are that:

27.1. The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.

27.2. The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person.

27.3. Exceptions to the rule of alternate remedy arise where: (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged.

27.4. An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, *a writ petition should not be entertained when an efficacious alternate remedy is provided by law.*

27.5. When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.

27.6. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that *the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with."*

16. So far as, the arguments advanced by learned Counsel for the petitioners qua the declaration of the account as NPA, the decision on the representation filed by the petitioners under Section 13(3-A) of the Act, issuance of notice under Section 13(4) dated 30.04.2026 (Annexure P-4) etc. are concerned, the same involves a lot many questions of facts to be decided, which we are afraid cannot be looked into while invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. The petitioners have got an alternative remedy available under Section 17 of the SARFAESI Act to prefer Securitization Application before Debt Recovery Tribunal, a specialized forum, where all such aspects can be looked into and considered in accordance with law.

17. In the light of the above discussion, based on the law discussed supra, it is a settled position of law by now that the practice of entertaining the

writ petition by the High Courts in exercise of power under Article 226 of the Constitution of India without exhausting the alternative remedy available under the law has been strongly deprecated by the Hon'ble Supreme Court of India. It has been held by the Hon'ble Supreme Court that when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained by ignoring the statutory dispensation.

18. Moreover, even though the powers under Article 226 of the Constitution of India to issue writs is rather wide, but at the same time, it is required to be exercised only in exceptional circumstances. In the present case the petitioners have not been able to make out a case to bring the instant writ petition within any of the well recognized exceptions carved out in the aforesaid judgments, namely where,

(a) the writ petition has been filed for enforcement of a Fundamental Right protected by Part III of the Constitution of India,

(b) there has been a violation of the principles of natural justice,

(c) the order or proceedings are wholly without jurisdiction and

(d) the *vires* of a legislation is challenged.

19. In view of the above, we are of the considered view that the petitioners should have availed the remedy specified under the SARFAESI Act for redressal of their grievances by approaching the jurisdictional Debt Recovery Tribunal but instead, had preferred the present writ petition under Article 226 of the Constitution of India. The practice of entertaining the writ petition by the High Courts in exercise of their jurisdiction under Article 226 of the Constitution of India without exhausting the alternative remedy available under the law has been strongly deprecated by the Hon'ble Supreme Court, by holding that when a

statutory forum is created by law for redressal of grievances, a writ petition should not be entertained, ignoring the statutory dispensation.

20. In the light of the above discussion, we find no ground to entertain the present petition, as a consequent, the instant writ petition is hereby dismissed.

(SANJIV BERRY) **JUDGE**	**(JASGURPREET SINGH PURI)** **JUDGE**

Dated: 18.08.2026

Gyan	i)	Whether speaking/reasoned?	Yes/No
	ii)	Whether reportable?	Yes/No