

'SBI'). Learned counsel for the respondents no.2-6/State of Haryana and its officers is also present. Albeit, the *lis* is *inter-se* the petitioners and respondent no.1-SBI.

FACTUAL SETTING:

2. The petitioners are aggrieved by the Judgment/Order dated 16.01.2025 passed by a learned Division Bench of the High Court of Punjab and Haryana at Chandigarh in CWP-987-2025 [2025:PHHC:005416-DB]¹ (hereinafter referred to as the 'Impugned Order'), by which the writ petition filed by respondent no.1-SBI for execution of Order dated 29.05.2024 passed in its favour by the District Magistrate, Yamuna Nagar under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the 'SARFAESI Act') with regard to taking over of possession of the properties of the petitioners, has been disposed of as follows:

'6. In view of the limited prayer, this petition is disposed of with a direction to respondents No.3 to 5 to implement order passed on 29.05.2024 (Annexure P-20/T) to enable the petitioner to take physical possession of the property in accordance with law expeditiously preferably within a period of two months from the date of receipt of certified copy of this order.'

3. The petitioner no.1-Company had availed a loan of Rs.8,09,00,000/- (Rupees Eight Crore and Nine Lakhs) from the respondent no.1-SBI in the year 2019. However, due to non-payment of any instalment, after about five-six months, on 29.07.2019, the concerned account was declared as a Non-Performing Asset (hereinafter referred to as 'NPA'). Thereafter, the respondent

1 *State Bank of India v State of Haryana and Others.*

no.1-SBI sought to take possession of the immovable properties belonging to the petitioners and filed an application under Section 14 of the SARFAESI Act on 22.02.2020 before the District Magistrate, Yamuna Nagar, who passed Order dated 29.05.2024. Thereafter, the respondent no.1-SBI moved before the High Court by filing the underlying writ petition on 16.12.2024 and the Impugned Order came to be passed, directing as above.

SUBMISSIONS:

4. Learned senior counsel, Mr. Nachiketa Joshi, for the petitioners submitted that within five-six months of the loan being availed of by the petitioners, the account was declared as an NPA, which was totally arbitrary and against the policy/scheme of respondent no.1-SBI itself. It was submitted that as per the policy/scheme of the respondent no.1-SBI, an offer was made by the petitioners to repay the entire principal amount but the same has not been acted upon. It was further contended that the petitioner no.1-Company is in a position to restart operations, and with a little bit of assistance, from both, the respondent no.1-SBI and this Court, a unit can become viable, which would only help the nation's economy. It was further contended that till date, the offer made to the respondent no.1-SBI to repay the principal amount in its entirety, has not yet been finally decided by the respondent no.1-SBI. Thus, the taking over of possession is both premature and arbitrary. It was canvassed that the matter called for our intercession.

5. *Au contraire*, learned senior counsel for the respondent no.1-SBI, Mrs. Archana Pathak Dave, submitted that as per the

requirement of law, the conduct of the petitioner no.1-Company in not even paying a single instalment after availing a loan with open eyes and on commercial terms, speak volumes. It was contended that against Order dated 29.05.2024 passed by the District Magistrate, Yamuna Nagar *supra*, the petitioner no.1-Company has, in fact, moved the learned Debts Recovery Tribunal-II, Chandigarh (hereinafter referred to as 'DRT') via Securitization Application No.556 of 2024 [Diary No.1947/2024], which is still pending adjudication and therein, a prayer seeking interim relief has been made, however no positive order was passed thereupon. It was urged that the petition be dismissed.

ANALYSIS AND REASONING:

6. We have heard the matter *in extenso* and considered various angles. In our opinion, the conduct of the petitioners is wanting on many fronts. *Firstly*, immediately or soon thereafter, after availing a loan of Rs.8,09,00,000/-, defaulting on the very first instalment and ever since, not repaying even a single farthing to the respondent no.1-SBI, cannot be glossed over. *Secondly*, the offer to repay the principal amount in the year 2025 i.e., after about six years from availing the loan facility is, in our humble yet considered view, frankly, too little too late. *Thirdly*, we are conscious of the fact that the petitioner no.1-Company itself moved the DRT substantively and also prayed for an interim/restraint order, which interim prayer has not been pressed and/or granted till date, indicating that the petitioner no.1-Company may be trying to take advantage of the present proceedings herein, although it ought to have stuck to one mode i.e., after approaching

the DRT, the statutory remedies available to it.

7. Having said that, we also cannot shut our eyes to the conduct of the respondent no.1-SBI. In the present case, we find that there has been negligence on the part of the SBI and its officials in granting/sanctioning a huge loan of Rs.8,09,00,000/- to the petitioner no.1-Company for the reason that the petitioners could not even start repaying and defaulted at the very first instance. Tentatively, this is a clear indicator that a proper assessment was not made of the capacity of the borrower(s)-petitioners to repay the loan by the concerned officials of SBI. We indicate that it is coming to the notice of the Court that the banks in general, including respondent no.1-SBI is casual in granting loans of huge amounts to bigger entities but at the same time, very demanding apropos small loans where ordinary people come for personal requirement(s), yet subjecting them to more stringent conditions and a tedious process, which may amount to, in certain cases, borderline harassment. Whilst recording our displeasure at such workings, we leave it for a more fit case where specific orders may be called for against such practices of the banks in general, including respondent no.1-SBI. Lest we be misunderstood, be it noted that we are in no way suggesting easing of norms and requirements for loan facilities, which is best left to the Reserve Bank of India and the bank(s) concerned, but the procedure so adopted can certainly be made easier and fairer for loan-seekers/applicants and thereafter at the stage of recovery also. Further, with regard to concessions/incentives, the policy needs to be suitably framed/graded so as to give the maximum

benefit to the persons who are at lowest rung of the social/financial strata. We would request Mrs. Dave, learned senior counsel, to convey our opinion to the SBI at the appropriate level, through her good offices.

CONCLUSION:

8. Reverting to the matter at hand, on an overall circumspection of the facts and circumstances, for the reasons recorded aforesaid, we are not inclined to interfere. Accordingly, declining special leave, the present petition stands dismissed. However, we accord a final opportunity to the petitioners to press their prayer for interim relief(s) before the DRT, if not already so done. If the same has been done, the petitioners may take steps, as and if so advised, in accordance with law. To facilitate the same, by way of extraordinary indulgence, for the next two weeks i.e., till 02.06.2026 only, *status quo* be maintained on the properties involved. We expect the SBI to not precipitate the matter in the afore-period. It is further made clear that the instant Order shall not aid the petitioners on merits nor prejudice, in any manner, the case of the SBI, before the DRT or the Debts Recovery Appellate Tribunal or any other forum, as may be.

9. Pending I.A.s stand disposed of.

(SAPNA BISHT)
COURT MASTER (SH)

(ANJALI PANWAR)
ASSISTANT REGISTRAR