

CRM-M No.25223 of 2023 (O&M)**IDFC First Bank Limited vs. State of Haryana & others**

Present: Mr. R.S. Cheema, Senior Advocate with
Mr. Arshdeep S. Cheema, Advocate for the petitioner.

The petitioner Bank is seeking issuance of directions to restrain respondents No.1 to 3 from transgressing their jurisdiction and enquiring/re-enquiring into the complaint No.06-EOW/P dated 31.03.2023 (Annexure P-30), which matter already stands adjudicated upon by various Courts right upto the Hon'ble Supreme Court.

Learned senior counsel inter alia submits that the petitioner, who is a secured creditor under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as, 'the SARFAESI Act' or 'the Act'), had acted strictly as per law and the procedure laid down under the Act against the complainant/borrowers. It has been further submitted that the complainant/borrowers had time and again raised the issue of under-valuation of their property. The issue was first raised before the Debts Recovery Tribunal-III, Delhi and had been decided against the borrowers, and had further attained finality till the Hon'ble Supreme Court of India. Thereafter, the complainant/borrowers had re-agitated the same issue and filed two complaints before the police at Gurugram. The petitioner duly complied with the notices sent to it by the police and also submitted all the requisite documents. In support, learned senior

counsel has drawn the attention of this Court to the notices (Annexure P-17 and P-23) and enquiry report (Annexure P-24A). Still further, while drawing the attention of this Court to the other enquiry reports, which have been annexed with the petition, it has been contended that the same clearly reveal that during the various enquiries conducted, it was found that no cognizable offence had been committed by the petitioner. Thereafter, the complainant had filed yet another complaint dated 29.12.2021, as a result of which the petitioner approached this Court by way of CRM-M No.20627 of 2022.

While drawing the attention of this Court to order dated 13.12.2022 (Annexure P-28) passed by this Court, learned senior counsel has submitted that the Court had directed the Commissioner of Police, Gurugram to supervise the enquiry proceedings and to conclude the same within seven days in accordance with law. Pursuant to the orders passed by this Court in the above said petition, enquiry report dated 30.12.2022 (Annexure P-29) was prepared, wherein yet again no cognizable offence was found to have been committed by the petitioner, and rather, it was concluded that the matter was of a civil nature. In support, learned senior counsel has drawn the attention of this Court to Annexure P-29, wherein the said fact stands reflected.

Learned senior counsel submits that even though as many as 4 enquiries were conducted and as already submitted, no commission of any cognizable offence was found, and thus, rightly no FIR was

registered, the matter was again marked for re-enquiry on the directions of the Home Minister, Haryana vide Annexure P-30 dated 15.03.2023.

Learned senior counsel has vehemently asserted that the power to direct re-enquiry into a matter which has already been enquired into 04 times could not have been ordered by the Home Minister. He submits that the initiation of a re-enquiry is in the teeth of order dated 13.12.2022 passed by this Court in CRM-M No.20627 of 2022.

Notice of motion for 02.08.2023.

Meanwhile, proceedings pursuant to the complaint (Annexure P-30) given by the complainant, shall be kept in abeyance, till the next date of hearing.

(MANJARI NEHRU KAUL)
JUDGE

May 17, 2023
rps