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PUNJAB & SIND BANK Vs. THE STATE OF PUNJAB & ANR.

Brief Facts

In the present case, the dispute arose over a financial transaction involving Punjab & Sind Bank (the petitioner) and the State of Punjab (the respondent), concerning the recovery of loan amounts under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002. Punjab & Sind Bank had extended a loan to a private borrower, which was backed by certain government-owned property as security. The borrower defaulted on the loan, causing the loan to be classified as a non-performing asset (NPA). To recover the dues, the bank invoked the provisions of the SARFAESI Act, which allows secured creditors to seize and sell the collateral in case of default. The bank proceeded to take possession of the secured property, which was mortgaged as security for the loan, and issued a public auction notice for the sale of the property.

The State of Punjab challenged the bank's recovery process, claiming that the property in question belonged to the government and could not be sold by the bank without proper authorization. The state argued that the property had been acquired under the Land Acquisition Act, and therefore, its sale was subject to government control. The primary issue before the court was whether the property in

question, mortgaged to the bank by the private borrower, could be legally subjected to the SARFAESI Act's recovery process, given that it was owned by the government. The bank contended that it had followed all due legal procedures and that it was entitled to recover the loan by auctioning the property as the borrower had defaulted.

Decision

The Supreme Court of India ruled in favor of Punjab & Sind Bank, allowing the bank to proceed with the recovery process under the SARFAESI Act. The Court held that the bank, as a secured creditor, had the legal right to enforce its security interest on the mortgaged property, even though it was government property. The Court found that the borrower had legally mortgaged the property to the bank as collateral for the loan, and upon default, the bank was entitled to recover the dues by auctioning the property, as per the provisions of the SARFAESI Act.

The Court rejected the arguments of the State of Punjab, stating that while the property had been acquired under the Land Acquisition Act, once it was validly mortgaged, the bank had the right to enforce its security interest under the SARFAESI Act. The judgment emphasized that the SARFAESI Act is a powerful tool for financial institutions to recover dues from defaulting borrowers without excessive judicial intervention, as long as the legal process is followed. Furthermore, the Court stressed the importance of honoring financial agreements and upholding the rights of secured creditors in cases of loan defaults. The decision set a significant precedent, affirming that government-owned property can be subjected to recovery under the SARFAESI Act if it has been validly mortgaged to secure a loan.

In conclusion, the Supreme Court's decision in this case underscores the broad powers given to financial institutions under the SARFAESI Act and reinforces the principle that secured creditors are entitled to recover dues by enforcing security interests, even if the collateral involves government-owned property, provided the mortgage was legally executed.

Link of the Order

<https://ibbi.gov.in/uploads/order/0bdaf9233eafc71559326fa68c786720.pdf>



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