2025:AHC-LKO:86825-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

WRIT - C No. - 12821 of 2025

Syed Masoom Raza Rizavi

.....Petitioner(s)

Versus

Hero Housing Finance Ltd. Thro. Its Auth. Officer Cyber Heights Gomti Nagar Lko. And Another

.....Respondent(s)

Counsel for Petitioner(s)	:	Vimlesh Tiwari, Abhinandan Kumar Pandey
Counsel for Respondent(s)	:	Nishant Shukla

Court No. - 11

HON'BLE ABDUL MOIN, J.
HON'BLE ZAFEER AHMAD, J.

1. Heard learned counsel for the petitioner and Shri Nishant Shukla, learned Additional Chief Standing Counsel for the respondents.

2. Instant writ petition has been filed praying for a writ of mandamus commanding the respondents not to interfere in the peaceful possession of petitioner's flat No.304, 3rd Floor, Plot No.17 & 22, Muftiganj, Daulatganj, Lucknow. A further prayer is for a writ of mandamus commanding the respondents authority to allow three months period to the petitioner to repay the default E.M.I. of his loan Account.

3. Admittedly, a Securitization Application filed by the petitioner against respondent No.2 is pending for consideration before the Debt Recovery Tribunal, Lucknow.

4. Upon a specific query being put to the learned counsel for the petitioner that as to how the writ petition is maintainable against a private finance company namely Hero Housing Finance Company, learned counsel appearing for the petitioner is unable to indicate as to how the writ petition would be maintainable more particularly keeping in view the law laid down by the Hon'ble Supreme Court in the case of ***Federal Bank Ltd. vs Sagar Thomas : 2003 (12) SCC 68*** wherein the Hon'ble Supreme Court has held as under:-

"merely because Reserve Bank of India lays the banking policy in the interest of

banking system or in the interest of monetary stability or sound economic growth having due regard to the interests of the depositors etc. as provided under Section 5 (c) (a) of the Banking Regulation Act does not mean that the private companies carrying on the business or commercial activity of banking, discharge any public function or public duty. These are all regulatory measures applicable to those carrying on commercial activity in banking and these companies are to act according to those provisions failing which certain consequences follow as indicated in the Act itself".

5. Apart from the above, a perusal of the record would indicate that the learned Tribunal vide its order dated 29.10.2025, a copy of which is Annexure-3 to the petition, had provided, in the interest of justice, that in case the petitioner deposits an amount of 10% of the notice amount within 7 days, consequences would be followed.

6. Admittedly, the petitioner has failed to deposit the aforesaid amount in pursuance of the order of the learned Tribunal dated 29.10.2025. Once the petitioner has even failed to comply with the order of the learned Tribunal which is in his favour consequently there cannot be any occasion for this Court to interfere with the notice which has been issued by the respondent No.2 in pursuance to the earlier orders.

7. Keeping in view the aforesaid discussion, no case for interference is made out. The writ petition stands ***dismissed***.

8. However, dismissal of the writ petition would not preclude the petitioner for filing of appropriate application before the Debt Recovery Tribunal, Lucknow.

(Zafeer Ahmad,J.) (Abdul Moin,J.)

December 27, 2025
prateek

Digitally signed by :-
PRATEEK ARORA
High Court of Judicature at Allahabad,
Lucknow Bench