

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.5816 of 2016
Date of Decision : 28.03.2016.

Angrej Singh and others

.....Petitioners

Versus

Debt Recovery Tribunal-2, Chandigarh and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. Krishan Singh, Advocate for the petitioners.

S.J.VAZIFDAR, ACTING CHIEF JUSTICE (ORAL):

The petitioners have challenged the notices issued under Sections 13(2) and 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 dated 28.01.2014 and 11.02.2016. The petitioners had in fact challenged these notices by filing an appeal under Section 17 of the Act. The order was passed in the appeal on the basis of the statement made on behalf of the petitioners that the entire amount would be paid by 15.03.2016. The petitioners contend that they were unable to make the payment due to *bona fide* reasons. They, therefore, sought an extension of time. The application was rejected by an order dated 27.11.2015, passed by the Debts Recovery Tribunal-II. This order has also been challenged in this writ petition. The respondents-bank thereafter, sought to auction the property. The petitioners filed another S.A. being S.A. No.93 of 2016 to challenge the auction. The

auction has also been challenged in this writ petition. However, the S.A. challenging the auction was dismissed by an order dated 21.03.2016.

2. Admittedly, the petitioners had not paid the amount as they agreed to and as recorded in the order dated 24.09.2015 (Annexure P-6). The Debts Recovery Tribunal-II, Chandigarh recorded the petitioners' agreement to pay the amount by 15.03.2016. Admittedly, nothing has been paid since then. The petitioners state that they were unable to pay the amount due to financial difficulty but now they are in a position to pay the amount.

3. We see no reason to interfere in this writ petition under Article 226 of the Constitution of India when the petitioners have an alternate remedy of filing an appeal before the Debt Recovery Appellate Tribunal. The Debt Recovery Appellate Tribunal is directed to consider the petitioners' application even for further extension of time and to re-schedule the installments. The Debt Recovery Appellate Tribunal would take into consideration the petitioners' application whether the offer is genuine or not. The only indulgence we are inclined to grant to the petitioners is to give them some time to file an S.A. before the Debt Recovery Appellate Tribunal.

4. The petition is disposed of with liberty to the petitioners to adopt an alternate remedy of filing an appeal against the order dated 21.03.2016, which has not even been challenged in this writ petition. The order was actually not challenged as it was passed only on the date the petition was filed. The petitioners are also at liberty to challenge any other order in the appeal.

5. The auction may proceed further but the sale shall not be confirmed up to 25.04.2016, to enable the petitioners to avail alternate remedy. The application for interim or *ad interim* relief also be made in such proceedings. This indulgence is also granted in view of the undertaking on behalf of the petitioners that they shall offer inspection of the premises to the auction purchaser.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

28.03.2016

Manoj Bhutani

(ARUN PALLI)
JUDGE