

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 6765 of 2016
Date of Decision: 12.04.2016

Harpreet Singh Sodhi and another

..Petitioners

Versus

Authorised Officer, Punjab National Bank and another

..Respondents

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

Present : Mr. Rohit Suri, Advocate, for the petitioners.
Mr. R.S.Bhatia, Advocate, for the caveators/respondent-bank.

S.J.VAZIFDAR A.C.J. (Oral)

The petitioners seek a writ of mandamus to forthwith stay the order dated 29.03.2016 passed by the Debts Recovery Tribunal refusing to stay the process of sale of a residential premises by the respondent-bank in exercise of its powers under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act'). The Debts Recovery Tribunal recorded the statement on behalf of the respondent-bank that the dues as on 30.11.2015 were ₹ 82 lacs in the accounts in respect whereof the proceedings under the Act had been adopted. The order also recorded the statement on behalf of the petitioners that they are ready to clear the dues as per notice under section 13(2) of the Act but they would not be able to do so by 14.04.2016. The order further noticed that the petitioners stated that they are ready to discharge the principal amount as mentioned in the notice. It is in view thereof the Debts Recovery Tribunal refused to grant interim order staying sale of the property. The directions were passed for filing replication and the matter was adjourned to 23.08.2016.

2. The petitioners have an alternate remedy of filing an appeal against the said order. The petitioners, however, persuaded us to entertain this writ petition stating that they are willing to pay the entire amount. There were, however, considerable disputes between the parties regarding the exact amount. For instance, there was no certainty about the rate of interest that would be applicable. The respondents on the other hand strongly opposed the interference in the writ jurisdiction stating that the petitioners had adopted various means to avoid repayment. They further stated that the highest bid had been accepted and a substantial amount had already been received by the respondents from the auction purchaser. They contend that the rights have been created in favour of the auction purchaser and despite the same the auction purchaser has not been impleaded.

In these circumstances we see no reason to interfere in exercise of our extra ordinary writ jurisdiction. The petitioners have an alternate remedy. Moreover, the SA itself is still to be heard. The sale, if confirmed, would be subject to the final orders in the SA. The effect of what has transpired pursuant to the auction as on date would depend upon determination of the amounts due.

3. In these circumstances, the petition is disposed of by relegating the petitioners to the alternate remedy. Needless to add that the validity of the sale may well also depend upon the orders that may be passed by the Debts Appellate Recovery Tribunal and/or the Debts Recovery Tribunal.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

12.04.2016
'ravinder'

(ARUN PALLI)
JUDGE