IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CA-CWP No.17 of 2017 (O & M)
Date of Decision:-23.10.2017

State Bank of India and another

...Appellants

Versus

M/s Him Valley Theme Park and others

...Respondents

<u>CORAM:- HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE</u>
<u>HON'BLE MR. JUSTICE HARINDER SINGH SIDHU</u>

Present:- Mr. S.S. Pathania, Advocate
for the appellants.

Mr. Gaurav Chopra, Advocate
for respondents No.1 to 4.

Mr. Deepak Balyan, Additional Advocate General, Haryana.

<u>S.J. VAZIFDAR C.J.(Oral)</u>

This appeal is against the order of learned Single Judge admitting the writ petition and continuing the stay order granted earlier vide order dated 08.12.2016. The learned Single Judge has stayed the dispossession of the petitioners from the residential accommodation which was secured in favour of the appellants. The appellants had issued a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The proceedings under Section 14 of the Act were also adopted by the appellants which were challenged in the writ petition in which the order impugned before us was passed. The respondents filed an application under Section 17 against the notice under Section 13(4) of the Act. Those proceedings were referred to the Lok Adalat. The Lok Adalat disposed of the matter vide order dated 12.12.2015. The respondents were ordered to pay a sum of ₹45,00,000/- towards full and final settlement "for regularization of the account". In other words this was not a full and final settlement of the appellants' dues but only for the purpose of regularization of the respondents' account. The amount of ₹45,00,000/- was paid by the last date of the instalment. There, however, seems to have been a delay in payment of one of the instalments alone. In these circumstances we are not inclined to interfere with the order of learned Single Judge, which merely admits the petition and grants a stay against dispossession.

Learned counsel appearing on behalf of appellants-Bank, however, contended that even thereafter the petitioners' account is liable to be termed a Non Performing Asset (NPA) on account of further defaults in the payment of the appellants' dues. The respondents disputes the same. The impugned order, however, does not prejudice the appellants' rights in the event of their being further defaults. In the event of there being futher defaults and the provision of Section 13 of the Act being satisfied, the appellants are always at liberty to issue fresh or further notices under Section 13 of the Act *inter alia* on the basis that the respondents are an NPA.

In that event, the protection granted vide stay order will not enure to the respondents' benefit in respect of the further proceedings.

The appeal is accordingly disposed of.

(S.J. VAZIFDAR)
CHIEF JUSTICE

October 23, 2017 **(HARINDER SINGH SIDHU)**
Vijay Asija **JUDGE**

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No