

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

C.W.P. No. 10893 of 2016 (O&M)

Date of decision: 18.05.2017

Sanjiv Kumar and anr.

.. Petitioners

vs.

Debt Recovery Tribunal-I and ors.

.. Respondents

Coram: **Hon'ble Mr. Justice Ajay Kumar Mittal**
 Hon'ble Mr. Justice Harinder Singh Sidhu

Present:- Mr. Aayush Gupta, Advocate for the petitioners.

Ms. Geeta Sharma, Advocate for respondent No.2-Bank.

None for respondent No.3.

Ajay Kumar Mittal, J.(Oral)

1. The petitioners, who were the guarantors in the term loan amount, which was sanctioned in favour of M/s Shree Sai Traders, respondent No.3, have approached this Court for setting aside the order dated 18.05.2016 (Anexure P-13) whereby the application dated 03.05.2016 (Annexure P10) filed by the petitioners for stay of taking over of the physical possession of the mortgaged residential house and also alienation thereof during the pendency of S.A. No. 89 of 2016 was dismissed by the Debt Recovery Tribunal-I, Chandgarh(for short, 'the Tribunal').

2. At the very outset, learned counsel for the petitioners submits that during the pendency of the writ petition various installments have been deposited. As on date the amount paid in the term loan would be more than the amount, which is shown as due amount. However, this fact is controverted by learned counsel for respondent no. 2.

3. Be that as it may, we dispose of this writ petition by permitting the petitioners to move fresh application for stay of taking physical possession of the residential mortgaged property before the Tribunal within two weeks from today.

4. It is clarified that in case such an application for interim injunction is filed by the petitioners within two weeks as prayed, the same shall be decided within next one month in accordance with law.

5. Learned counsel for the petitioners also prayed that this Court while issuing notice of motion had ordered status quo to be maintained in respect of the mortgaged residential property till further orders. He prayed that till the said application is decided by the Tribunal status quo may be maintained.

6. Accordingly, it is directed that till the Tribunal decides the fresh application for interim injunction filed by the petitioners, in view of the subsequent development which has taken place, status-quo shall be maintained.

7. Needless to say that any observation made with regard to the interim prayer made by the petitioners while deciding the instant writ petition shall not have any bearing on the merits of the controversy and the Tribunal shall decide the issue afresh by passing a speaking order in accordance with law.

(Ajay Kumar Mittal)
Judge

(Harinder Singh Sidhu)
Judge

18.05.2017
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Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No