

CM-17137-2017 and
CM-17346-2017 in/and
CWP-19805-2017 (O&M)

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HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-17137-2017 and
CM-17346-2017 in/and
CWP-19805-2017 (O&M)
Date of Decision: December 06, 2017

Joginder Pal and another

.....Petitioners

Versus

DRT-III, Chandigarh and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDHIR MITTAL**

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|----|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.G.S.Anand, Advocate for the petitioners.

Mr.Harsh Chopra, Advocate for respondent Nos.2 and 3.

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SURYA KANT, J.

The petitioners are son and mother respectively, whose grievance in the instant writ petition is against the action initiated by Dewan Housing Finance Corporation Limited, under Section 13 of the SARFAESI Act, 2002. As the secured creditor intended to sell their entire residential premises for the recovery of loan amount of Rs.17.00 lacs or so, the petitioners, after approaching the DRT, came to this Court with a plea that should they be permitted to sell the first floor alone, the loan liability can be fully satisfied. This Court consequently intervened for the said limited

purpose and with a view to facilitate the sale of first floor of the house, it

was directed that as and when the petitioners' bring a prospective buyer interested to purchase the first floor of the building, the secured creditor will immediately open the lock of the property and permit its inspection. The said direction has been faithfully complied with by the secured creditor, but fact of the matter is that the petitioners have not been able to sell the first floor of the house for various reasons. They also now fairly concede that the entire house as a single unit will have to be sold.

[2] The secured creditor has moved a separate application seeking permission to sell the entire property.

[3] In this view of the matter, we dispose of this writ petition with liberty to the respondent-secured creditor to invite the bid and sell the house with an endeavour to fetch maximum price. The petitioners shall also be at liberty to bring a prospective buyer to participate in the bid. We are informed that some perishable items are lying on the ground floor of the premises which was under the occupation of tenants alongwith the second petitioner. We have persuaded learned counsel for the respondent-secured creditor to permit the petitioners to remove such perishable items, though an inventory may be prepared to avoid any kind of controversy. Let such goods be removed from the premises on 09.12.2017 or 13.12.2017 at 11.00 A.M.

[4] The house will be auctioned at the earliest and preferably within a period of three months from the date of receipt of a certified copy of this order. During this period, the petitioners shall be at liberty to bring a prospective buyer through private negotiation to whom the secured creditor

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may show the entire premises as and when required including for the purpose of its evaluation, provided that the sale consideration to be offered by such buyer is more than the loan liability.

**(SURYA KANT)
JUDGE**

December 06, 2017
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**(SUDHIR MITTAL)
JUDGE**

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |