IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 25854 of 2017 (O&M)

Date of decision: 5.12.2017

Jaswinder Kaur .. Petitioner

vs

Bank of Baroda and another .. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Gurvinder Singh Gill

Present: Mr. Harish Sharma, Advocate, for the petitioner.

Mr. C. S. Pasricha, Advocate, for respondent no. 1.

Rajesh Bindal, J.

The petitioner approached this Court challenging action of the respondent-bank whereby the loan raised by her was sought to be recovered while invoking provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), as the petitioner had defaulted in repayment thereof.

In the memo of parties, the petitioner mentioned that she is resident of House No. 961, Phase-IV, Mohali, however, the petition has been filed through her power of attorney Gurwinder Singh.

While issuing notice of motion on 13.11.2017, the following order was passed:-

> "Learned counsel for the petitioner submitted that the petitioner had raised housing loan of ₹ 40 lacs in July 2014. The installments were paid regularly till May 2015. However, on account of certain unavoidable circumstances there was default. The bank declared the loan as NPA and issued notice for taking possession of the property in dispute on September 8, 2017, mentioning amount due as ₹

> 41.44 lac. Monthly installment of the loan amount is ₹ 39,906/-. After the aforesaid notice for possession was issued, the petitioner had deposited ₹ 2.5 lacs and also requested the bank to grant some time to regularise the loan, which otherwise is payable in 19 years.
>
> Learned counsel for the petitioner further submitted that the petitioner will deposit a sum of ₹ 1.5 lacs within a period of three days, and another sum of ₹ 5 lacs will be deposited within a period of 15 days thereafter. The balance overdue amount shall be paid within a period of one month thereafter.
>
> Notice of motion for 5.12.2017.
>
> Subject to petitioner's depositing ₹ 6.5 lacs as stated above, dispossession of the petitioner from property in dispute shall remain stayed."

Learned counsel for the respondent-bank submitted that it is the proxy litigation filed by the petitioner through power of attorney. In fact, the petitioner has gone to Australia in the year 2016.

The aforesaid fact is not disputed by learned counsel for the petitioner.

Considering the fact that loanee has gone to Australia in the year 2016, we do not find that there is any error in the action being taken by the authorities for recovery of the loan amount.

The writ petition stands dismissed.

(Rajesh Bindal)
Judge

5.12.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned Yes/No

Whether Reportable Yes/No