

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.9626 of 2017 (O&M)

Date of Decision: 10.07.2017

Bhupinder Singh & Ors.

... Petitioners

VS.

State of Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

Present: Mr. Jag Nahar Singh, Advocate for the petitioners

SURYA KANT, J. (Oral)

(1) The first petitioner had availed house loan from the fourth respondent – Magma Housing Finance who is a notified financial institution. There was admittedly default in payment of loan amount which led to the appointment of an Arbitrator as per the terms and conditions of loan agreement. The Arbitrator passed an award, allegedly *ex parte*, dated 30.11.2010 against which the petitioner's petition under Section 34 of the Arbitration and Conciliation Act was dismissed on 12.08.2015. The said order is under challenge at their instance in FAO No.854 of 2016 which is pending in this Court. Meanwhile, the fourth respondent invoked the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the District Magistrate, SAS Nagar Mohali, pursuant thereto, has passed an order dated 11.04.2017 authorising the Tehsildar, Mohali to take over physical possession of the mortgaged property.

(2) The aggrieved petitioners have laid challenge to the said order through the instant writ petition.

(3) On May 5, 2017, it was stated on behalf of the petitioners that they are prepared to discharge the outstanding liability provided that some

time to bring demand draft of ₹ 10 lacs to prove their *bona fide*. No such draft was brought on the previous date for which again time was sought and granted.

(4) Learned counsel for the petitioners states that despite his communications, the petitioners have not responded. It is obvious that the petitioners are not ready to honour their statement made on 05.05.2017. Admittedly there is no *ad interim* stay granted to the petitioners in the pending FAO. In these circumstances, the action taken by the fourth respondent being in conformity with the settled law and in view of the apparent reluctance on the part of the petitioners to discharge their loan liability, we see no ground to interfere with except to observe that on merits, the petitioners shall be at liberty to raise all the pleas in the pending FAO.

(5) Ordered accordingly.

(Surya Kant)
Judge

10.07.2017
vishal shonkar

(Sudip Ahluwalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes / No
Yes / No