

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

CWP-Com No. 203 of 2017 (O&M)  
Date of decision : July 11, 2017

Pokhar Mal Gupta and another

..... Petitioners

v.

Oriental Bank of Commerce

..... Respondent

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**CORAM : HON'BLE MR. JUSTICE AJAY TEWARI**

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Present : Mr. BB Bagga, Advocate  
for the petitioners.

Mr. Ajit Singh Sodhi, Advocate  
for the respondent.

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**Ajay Tewari, J (Oral)**

Mr. Abhey Partap Singh, Manager (North) of the respondent  
bank is present in person.

On the last date, the following order was passed :-

“ The petitioners availed of cash credit facility to the extent of Rs.2.50 crores which was secured by equitable mortgage of residential house No. 342, Sector 32-A, Chandigarh and land and building at village Dadi Kanian Tehsil Nalagarh District Solan measuring 01 Bigha 17 Biswa i.e. 1850 sq. yards , bearing khata/Khatauni No. 120/138, Khasra No.791/188 (0-9) and 793/198(1-08) in the name of M/s Atul Castings Ltd.. The petitioners however defaulted leading to initiation of proceedings under Section SARFAESI Act , 2002.

After negotiations vide Annexure P-12 the respondent-Bank had agreed to the request of the petitioners for release of his residential property on the terms and conditions specified therein which were as under:-

“1. An amount of Rs.19 lacs shall be paid on or before 29.03.2017. and balance Rs.196.00 lacs

on or before 30.06.2017.

2. In case you fail to deposit the amount of Rs.19 lacs on or before 29.03.2017, permission as above to repay amount of Rs.215.00 lacs for release of above security shall stand withdrawn automatically and we shall proceed under SARFAESI Act for sale of all charged/mortgaged properties.

3. The other property situated at Vill. Dadi Kania on Baddi Nalagarh Road, District Solan admeasuring one bigha and 17 biswas i.e. 1850 sq. yards having market value of Rs.80.40 lacs and realisable value of Rs.68.42 lacs as per valuation report dated 25.4.2015 shall remain charged to the bank till liquidation of account. The bank shall continue to take action in respect of this property by putting the same on e-auction under SARFAESI Act after obtaining fresh valuation from the approved valuer.

4. All personal guarantees of directors and corporate guarantee of Atul Castings Limited shall remain charged to the bank till adjustment of account.”

The petitioners however did not deposit the amount as per the said terms and conditions. Consequently, the respondent-Bank vide letter dated 29.04.2017 (annexure P-14) withdrew the offer and stated that it was going to e-auction the property in question. Thereafter, the respondent-Bank issued notice (Annexure P-17) dated 16.5.2017 for sale of secured assets. As per the said notice, the residential house of the petitioners (i.e.H.No. 342, Sector 32-A, Chandigarh) is proposed to be auctioned on 21.6.2017. The reserve price thereof has been fixed at Rs.191.07 lacs.

Learned counsel for the petitioners states that he is willing to deposit an amount of Rs.20,00,000/-(twenty lacs only) with the respondent bank by tomorrow and an amount of Rs.1,90,00,000/-(one crore ninety lacs only) would be deposited on or before 10.07.2017.

Notice of motion for 11.7.2017.

Dasti process as well.

The petitioners may deposit the amount as aforesaid with the Bank which shall accept the same without prejudice to its rights.

Meanwhile the respondent-Bank may not proceed with the auction of the residential property of the petitioners in pursuant to Annexure P-17.

Copy of this order be supplied to learned counsel for the petitioner under the signatures of Special Secretary of this Bench.”

Today, with the agreement of the learned counsel for the parties, it has been decided that the bank will set into motion the process for re-auctioning the property and will have no objection if the petitioners also bid for the same. The bank would also allow the petitioners to stay in the house during the auction. It has also been agreed that in case the petitioners emerge as highest bidders, amount of ₹20 lacs deposited by them would be treated as pre-bid amount. In case, the petitioners do not emerge as the highest bidders, they would vacate the property voluntarily within a period of 15 days of the auction and would file their undertakings to this effect in this Court within a period 10 days, and the amount of ₹ 20 lacs deposited by them would be adjusted towards the pending dues and would not be refunded to the petitioners.

This writ petition stands disposed of in the terms indicated above. Copy of this order be handed over to counsel for the parties under the signatures of the Bench Secretary.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

( AJAY TEWARI )  
JUDGE

July 11, 2017  
'kk'

**Whether speaking/reasoned:**  
**Whether Reportable:**

**Yes/No**  
**Yes/No**