

218

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

**CWP No. 1009 of 2018
Decided on 10.09.2018**

Satwinder Singh and another

Petitioners

Versus

The District/Duty Magistrate, Amritsar and others

Respondents

* * *

**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL, JUDGE
HON'BLE MR. JUSTICE AVNEESH JHINGAN, JUDGE**

Present : Mr. Vishal Handa, Advocate
for the petitioners.

Mr. A.D.S. Sukhija, Advocate
for the respondents.

* * *

AVNEESH JHINGAN, J.

The present writ petition has been filed seeking quashing of order dated 28.12.2017 (Annexure P-1) passed by respondent No.1 under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act').

2. Petitioner No.1 is the borrower and petitioner No.2 who is wife of petitioner No.1 is guarantor. The District/Duty Magistrate, Amritsar; Authorized officer, HDFC Bank Limited, Hall Bazar, Amritsar; Authorized officer, HDFC Bank Main Hub Industrial Area, Phase-1, Chandigarh and authorised officer, HDFC Bank Limited (Legal Cell),

New Delhi have been arrayed as respondents No.1 to 4 respectively in the writ petition. Sunil Gupta, business partner of the petitioner has been arrayed as perma respondent No.5.

3. Petitioner No.1 and respondent No.5 were partners in M/s Gautam Traders. The firm availed the cash credit facility of ₹1,40,00,000/- from respondent-bank. In order to secure the credit facility, property bearing No.49 (the Balmoral Castle Birty) measuring 2204, 88 sq. yards, bearing khasra no. 48//24 min, khata khatoni no. 308/525, 472//21, Hadbast No.347 situated at Rakba Village Heir, Abadi Palm Groove, Oak Lane, Ajnala Road, Amritsar was mortgaged.

4. There was a default in repayment. Account was classified as Non-Performing Asset (NPA) on 29.01.2016. Notice dated 30.04.2016 under Section 13(2) of the Act was issued. As per notice, there was an outstanding dues of ₹1,48,79,600/-. Thereafter, the bank moved an application under Section 14 of the Act before respondent No.1.

5. Being aggrieved of the proceedings for taking the physical possession of the mortgaged property, the present writ petition has been filed.

6. Notice of motion was issued on 18.01.2018. The counsel for the petitioners stated that petitioner No.1 is ready and willing to pay the entire outstanding amount within five months. In order to test the *bona fide* of the petitioners, they were directed to deposit a sum of ₹50 lakhs within two weeks with the respondent-bank and subject to such deposit, *status quo* regarding possession of the property was ordered to be maintained.

7. Heard learned counsel for the parties.
8. Learned counsel for the petitioners contended that the petitioners have only been able to deposit ₹25 lakhs but they are ready and willing to pay the outstanding dues.
9. Learned counsel for the respondents contended that the petitioners have failed to comply with the order dated 18.01.2018.
10. The claim of the petitioners throughout has been that they are ready to clear the outstanding amount. It is pertinent to note that a statement was made before this Court that the petitioners will pay the entire amount within five months.
11. The order dated 18.01.2018 passed by this Court is quoted below :-

“It is stated at the outset that the petitioner is ready and willing to pay the entire loan amount within five months.

Notice of motion for 09.04.2018.

With a view to test the bona fide of petitioners, they are directed to deposit a sum of ₹50 lacs within two weeks with the respondent-Bank. Subject to such deposit, status quo re: dispossession be maintained.

Let a copy of this order under the signature of the Bench Secretary be handed over to counsel for the petitioners on payment of usual charges.”

12. The petitioners have not deposited even ₹50 lakhs. Initially, the petitioners showed their willingness to clear the entire amount within five months, since then more than seven months have passed after issuing notice of motion but only ₹25 lakhs have been deposited till date.
13. The petition lacks *bona fide*. The entire endeavor is to

delay the taking over of physical possession of the secured property.
The petitioners are only making oral statements regarding clearance of the outstanding dues but the same are not supported by any concrete effort.

14. The writ petition is dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

September 10, 2018
pankaj baweja

Whether speaking/reasoned: Yes / No

Whether reportable : Yes / No