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

CWP No. 10990 of 2018
DECIDED ON: OCTOBER 23, 2018

HARSAN RAJDEEP SINGH & ANOTHER

.....PETITIONERS

VERSUS

DEBT RECOVERY TRIBUNAL-III, CHANDIGARH & ANR

.....RESPONDENTS

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

Present : Mr. Ramandeep , Advocate
for the petitioners.

Mr. Ravi Kumar, Advocate
for respondent No.2-Bank

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AVNEESH JHINGAN, J

The present writ petition has been filed seeking quashing of order dated 27.07.2017 (Annexure P-4) passed by the Presiding Officer, Debt Recovery Tribunal-III, Chandigarh (for brevity 'the Tribunal') as well as recovery certificate dated 27.07.2017 (Annexure P-5). Further prayer is for quashing of possession notice dated 19.04.2018 (Annexure P-3).

2. The petitioner No.1 is the borrower of loan and petitioner No.2 who is the mother of petitioner No.1 stood as Guarantor. The Debts Recovery Tribunal, Chandigarh and UCO Bank, No.10, BTM Sarni, Kolkata having its

branch office at Patiala, have been arrayed as respondents No.1 and 2 respectively in this writ petition.

3. Petitioner No.1 availed a term loan of ₹19,00,000/- from the respondent-Bank, which was to be repaid within a period of 7 years in 84 equal monthly installments of ₹33,743/- each. In order to secure the credit facility availed, petitioner No.1 mortgaged his sole residential house bearing No. 43, measuring 595-5/9 sq yards, situated at Mohalla Kashavi, Sanour, Tehsil and District Patiala.

4. Petitioner No.1 defaulted in repayment of loan, consequently, the loan account was classified as Non-Performing Asset (NPA). The respondent-Bank filed an Original Application (OA) before the Tribunal. The said OA was decided by the Tribunal vide its order dated 27.07.2017 holding that petitioners were liable to pay a total sum of ₹19,01,956.00/- jointly and severally alongwith current and future simple interest @11.70% per annum w.e.f. 14.03.2016, till the date of realization of the amount.

5. The respondent-Bank issued a possession notice dated 19.04.2018 under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act'). Aggrieved of the recovery proceedings initiated under the Act, the present petition has been filed.

6. Vide order dated 03.05.2018, notice of motion was issued and subject to petitioners' depositing a sum of ₹5,00,000/- within two days, it was ordered that the mortgaged house shall not be auctioned.

7. Order dated 03.05.2018 was complied with. Today, learned counsel for the petitioners in compliance of order dated 11.09.2018, has

produced a demand draft of another sum of ₹5,00,000/-. The same was handed over to the learned counsel for the respondent-Bank and the respondent-Bank shall be entitled to encash the same without prejudice to its rights in this petition.

8. Heard learned counsel for the parties.

9. Learned counsel for the petitioners submitted that the petitioners would approach the respondent-Bank with a proposal to clear the over due amount and the respondent-Bank be directed to consider the same in some time bound manner.

10. Learned counsel for the respondent-Bank submitted that in case a reasonable proposal is made by the petitioners, the respondent-bank will consider the same.

12. Without expressing any opinion on the merits of the case and keeping in view the facts of the case, the present petition is disposed of with the following directions:

(i) The petitioners shall approach the respondent-Bank within one week from today with a proposal containing the time schedule to clear the outstanding dues;

(ii) The respondent-Bank on receipt of proposal shall decide the same in accordance with law, after affording an opportunity of hearing to the petitioners by passing a speaking order. The decision on the proposal shall be taken at the earliest but not later than 15 days from the receipt of proposal;

(iii) It is clarified that in case the petitioners fail to submit proposal within specified time, respondent-Bank shall be at liberty to proceed in accordance with law;

(iv) The interim protection granted by this Court vide order dated 03.05.2018 shall continue till the decision is taken by respondent-Bank on the proposal submitted by the petitioners;

(v) However, it is clarified that extension of interim protection shall not be construed as an expression of opinion on the merits of the case by this Court.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

OCTOBER 23, 2018
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Whether speaking/reasoned: Yes / No
Whether reportable : Yes / No