IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.12681 of 2018
Decided on 03.10.2018

Mohan Lal Garg & others

Petitioners

Versus

Bank of Baroda, Head Office, Bandra Kurla Complex, Bandra East, Mumbai & another

Respondents

* * *

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

Present : Mr. Sandeep Jain, Advocate
for the petitioners.

Mr. Gaurav Goyal, Advocate
for the respondents.

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AVNEESH JHINGAN, J.

The present writ petition has been filed seeking quashing of notice dated 05.03.2018 (Annexure P-2) issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act').

2. Petitioners No.1 to 3 are borrowers. Bank of Baroda, Head Office, Bandra Kurla Complex, Bandra East, Mumbai and Bank of Baroda, Sector 22, Chandigarh have been arrayed as respondents No.1 and 2 respectively, in the writ petition.

3. The petitioners availed an overdraft limit of ₹13 lakhs from the respondent-bank. In order to secure the credit facility, residential property in the name of Mohan Lal Garg and Late Kamlesh Kanta admeasuring Khata No.477/1751, Khasra No.14//7/1/5-0, 14/2//(4-0), 13//10/1/3-7, 14//6/8-0, 13//10/2/4-13, 14//15/8-0, Kite 6 rakba 33 kanal 0

marlas : 17/1320 shares Bakdar 01 Kanal 8-1 marla situated at village Lohgarh, Nagar Panchayat Zirakpur, Tehsil Derabassi, District Mohali was mortgaged.

4. Petitoners failed to maintain financial discipline and the account was declared as Non-Performing Asset (NPA) on 31.03.2015. The respondent-bank issued a notice dated 05.03.2018 under Section 13(2) of the Act. As per notice, there was outstanding amount of ₹7,69,730/- plus accrued interest from 31.03.2015 and other charges. The petitioners filed objections under Section 13(3-A) of the Act on 03.05.2018. The objections were rejected by the respondent-bank vide letter dated 08.05.2018. Aggrieved of the notice issued under Section 13(2) of the Act, the present writ petition has been filed.

5. On 18.05.2018, learned counsel for the petitioners conteded that there was balance amount of about ₹7.70 lakhs and the petitioners are willing to deposit ₹2 lakhs within 10 days and would pay the balance amount within a reasonable time.

6. Notice of motion was issued subject to petitioners' depositing ₹2 lakhs within ten days. The dispossession/sale of mortgaged property was stayed.

7. Heard learned counsel for the parties.

8. Learned counsel for the petitioners argued that petitioners had deposited ₹2 lakhs after issuance of notice of motion. He further submitted that petitioners are ready to settle the account.

9. Learned counsel for the respondent-bank contended that after adjusting ₹2 lakhs deposited by the petitioners, as on date outstanding amount is ₹7,69,000/- approximately. He further argued that the petitioners have never approached the bank for settlement of

account.

10. In the present case credit facility of ₹13 lakhs was availed and in order to secure the interest of the bank, the residential house was mortgaged. As on date only an amount of ₹7.69 lakhs is due which the petitioners are ready to settle. No notice under Section 13(4) of the Act has been issued by the bank.

11. Without expressing any opinion on the merits of the case, keeping in view the totality of facts & circumstances of the case and in the interest of justice, the writ petition is disposed of with liberty to the petitioners to approach the respondent-bank with reasonable offer alongwith a proposal of time schedule for payment of the outstanding amount. It is clarified that during the intervening period, the petitioners shall continue to deposit the due installments. The respondent-bank on receipt of proposal of the petitioners, shall decide the same in accordance with law by taking a sympathetic view, as expeditiously as possible.

12. However, it is clarified that on failure of the petitioners either to deposit the due installments or to comply with the terms & conditions for clearing the outstanding amount, the respondent-bank would be at liberty to proceed in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

October 03, 2018
pankaj baweja

Whether speaking/reasoned: Yes / No

Whether reportable : Yes / No