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

CWP No. 13318 of 2018
DECIDED ON: OCTOBER 17, 2018

M/S SHRI JAI TRADING CO, KAITHAL

.....PETITIONER

VERSUS

ZONAL MANAGER, PUNJAB AND SIND BANK, KARNAL & ANR

.....RESPONDENTS

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

Present : Mr. R.C. Gupta, Advocate
for the petitioner.

Mr. ABS Sidhu, Advocate
for the respondents.

*****

AVNEESH JHINGAN, J

The present writ petition has been filed seeking direction to the respondents to reschedule the installments as per RBI guidelines/instructions. Further, to issue directions to respondents not to take physical possession of the residential house of the petitioner.

2. The petitioner is a proprietorship concern and the instant petition has been filed through its proprietor. Zonal Manager, Zonal Office, Haryana, Punjab and Sind Bank, Model Town, Gurdwara Building, Karnal and Manager, Punjab & Sind Bank, Pehowa Chowk, Kaithal, have been arrayed as

respondents No.1 and 2 in this writ petition.

3. The petitioner availed a cash credit limit of ₹7,00,000/- from the respondent-Bank in March 2015. In order to secure the credit facility availed, petitioner mortgaged his residential house bearing House No. 372/16, Nehru Garden Colony, Kaithal.

4. There was a default in repayment and the account was classified as Non Performing Asset (NPA) on 30.09.2015. Consequently, the respondent-Bank issued notice dated 06.02.2016 under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act'). As per the notice, there was an outstanding amount of ₹7,51,845/55 as on 31.12.2015. Thereafter, a notice dated 21.11.2017, under Section 13(4) of the Act was issued to take physical possession of the secured assets. Aggrieved of the steps taken under Sections 13(2) and 13(4) of the Act, petitioner filed a Securitization Application (SA) before the Debt Recovery Tribunal-II, Chandigarh. Vide order dated 28.03.2018 the SA was dismissed. Thereafter, the petitioner made a representation before the bank dated 06.05.2018 stating that he is ready to settle the account as per the RBI guidelines but the respondents did not consider the aforesaid representation and the same remained pending. Hence, the present writ petition has been filed.

5. Vide order dated 24.05.2018 notice of motion was issued and *status quo* regarding residential house was ordered to be maintained subject to the deposit of ₹75,000/- by the petitioner before 10^{th} day of every month. However, in the event of any default the bank was granted liberty to take possession as per law.

6. Learned counsel for the petitioner has submitted that petitioner is continuously paying ₹75,000/- per month and shall continue to pay the same till the outstanding dues are cleared.

7. Learned counsel for the respondents contended that though petitioner is making payment in compliance with order dated 24.05.2018 but still as on date there is an outstanding amount of ₹8,32,000/-.

8. Without expressing any opinion on the merits of the case, the instant petition is disposed of with direction to the petitioner to pay ₹75,000/- continuously before 10^{th} of every month till the outstanding dues are cleared. It is, however, clarified that in case of any default in payment of installments, the respondents shall be at liberty to proceed in accordance with law.

9. The interim protection granted by this Court vide order dated 24.05.2018 shall continue till the outstanding dues are cleared, subject to petitioner's depositing a sum of ₹75,000/- before 10^{th} day of every month.

10. It is clarified that in case of default in making deposit by petitioner the Bank would be at liberty to proceed in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

OCTOBER 17, 2018
sham

Whether speaking/reasoned: Yes / No
Whether reportable : Yes / No