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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.14991 of 2018
Decided on 24.09.2018

Ranjeet Singh & another

Petitioners

Versus

Union of India and others

Respondents

* * *

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

Present : Mr. Vipul Dharmani, Advocate
for the petitioners.

Mr. Rajvir Singh Sihag, Advocate
for respondent No.1.

Mr. A.D.S. Sukhija, Advocate
for respondent No.2.

* * *

AVNEESH JHINGAN, J.

The present writ petition has been filed seeking quashing of notice dated 11.08.2017 (Annexure P-1) issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act') and notice dated 15.11.2017 (Annexure P-3) issued under Section 13(4) of the Act.

2. The petitioners No.1 and 2 are husband and wife. Union of India; HDFC Bank Limited, Chhoti Baradari, Patiala; District Magistrate, Patiala and Naib Tehsildar, Rajpura have been arrayed as

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respondents No.1 to 4 respectively, in this writ petition.

3. The petitioners availed financial assistance to the tune of ₹36 lakhs in the year 2011 from respondent No.2. The financial assistance was enhanced to ₹47 lakhs in October, 2012 and ultimately, it was increased to ₹54,90,000/- in the year 2013. In order to secure the loan, following property was mortgaged:

> "Property bearing House No.103, measuring 9.2/30 Marlas (272 sq. yards), out of khewat khatauni No. 1463/2522, khasra No.235 (33-3), 236 (3-0), 237 (3-6), 238(16-18), 239(6-18), 240(13-16), 241(7-16), 242(0-2), 243(0-15), 244 (3-16), 245(20-9), 246(3-3), 247(8-15), 248(3-9), 249(2-5), 250(0-13), 251(0-04), 252(1-0), 253(7-9), 254(3-8), 255(1-7), 256(10-17), 257(3-10), 258(1-6), 259(12-0), 260(12-3), 261/2(39-16), 262(2-3), 263(1-4), 264(0-11), 265/2(4-1), 267/2(1-11), 268(4-6), 269(0-18), 270(0-03), 271(28-0), 272(1-8) situated at Dalima Vihar, Rajpura, Distt. Patiala."

4. There was a default in repayment of loan and the account was classified as Non-Performing Asset (NPA). The bank issued notice dated 11.08.2017 under Section 13(2) of the Act. As per notice, there was an outstanding amount of ₹45,82,857/-. The petitioners filed objections under Section 13(3-A) of the Act. The respondent-bank issued notice under Section 13(4) of the Act on 15.11.2017. Thereafter, the respondent-bank filed an application under Section 14 of the Act. The application was allowed by respondent No.3. Being aggrieved of the proceedings under the Act, the present writ petition was filed.

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5. On 01.06.2018, learned counsel for the petitioners submitted that the petitioners are willing to deposit the entire overdue amount within two weeks and shall further deposit the installments regularly. Notice of motion was issued. *Status quo* regarding physical possession of the secured asset was ordered to be maintained subject to petitioner's depositing the overdue amount within two weeks. It was clarified that if the petitioners fail to deposit the amount as stated, the bank shall be at liberty to take physical possession of the property as per law.

6. Heard learned counsel for the parties.

7. Learned counsel for the petitioners contended that the petitioners would clear the overdue amount and shall be paying the installments regularly thereafter. He stated that the petitioners would deposit another amount of ₹8 lakhs to show the *bona fides.*

8. Learned counsel for the respondent-bank argued that the petitioners have not approached the respondent-bank for regularization of the account or for clearing the outstanding dues.

9. Without expressing any opinion on the merits of the case, the writ petition is disposed of with following directions:

(i) ***Petitioners shall, within seven days from today, approach the respondent-bank for regularization of the loan account or clearing the outstanding dues. Alongwith a representation, petitioner shall deposit `8 lakhs.***

(ii) ***On receipt of the representation, the respondent-bank shall decide the same in accordance with law after***

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providing an opportunity of hearing to the petitioners.

(iii) The decision shall be taken at the earliest but not later than one month from the date of representation.

10. It is clarified that in case of failure of the petitioners to comply with the order of this Court or decision of the bank, the respondent-bank shall be at liberty to take possession of the secured property in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

September 24, 2018
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Whether speaking/reasoned: Yes / No
Whether reportable : Yes / No

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