IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No. 15476 of 2018
Decided on : 11.07.2018

Surinder Kumar

Petitioner

Versus

District Magistrate, Ludhiana and others

Respondents

* * *

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

Present : Mr. Karan Bhardwaj, Advocate
for the petitioner.

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AVNEESH JHINGAN, J.

The present writ petition has been filed with the prayer for quashing notice dated 14.05.2018 (Annexure P-2) issued under section 14(1)(a) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short the 'SARFAESI Act') vide which the petitioner has been directed to hand over the possession of his house.

2. In the petition, respondent No.1 is District Magistrate, Ludhiana; respondent No.2 is Tehsildar-cum-Executive Magistrate, Ludhiana (North); District Ludhiana and respondent No.3 is HDB Financial Services Limited, Ludhiana.

3. Petitioner took a loan amounting to ₹ 1,23,10,937/- from respondent No.3. The loan was disbursed on 15.11.2013, duration of which is from 04.12.2013 to 04.04.2025. The loan was to be repaid in 137

installments and the monthly installment was ₹ 1,91,638/-. The petitioner, in order to secure the loan, mortgaged his House No. B-1-1044/37, Akash Puri, Ludhiana, Punjab. Petitioner defaulted in repayment of loan and last installment was paid in April, 2017.

4. Respondent No.3, on account of the default of the petitioner, declared the loan account as non-performing and a notice under section 13 (2) of the SARFAESI Act was issued. On failure of the petitioner to repay or to regularize the account, respondent No.3 issued another notice under section 13(4) of the SARFAESI Act. Notice was issued by respondent No.2 under section 14(1)(a) of SARFAESI Act to hand over the possession of the house till 01.06.2018.

5. Aggrieved of the said order, the present writ petition has been filed.

6. Though in the petition, emphasis is that the petitioner is willing to repay the over due installments and to regularize his accounts, but this is only a bald statement and is not backed up by any concrete proposal or to show the *bonafide* of the petitioner as no reasonable amount has been offered to clear the dues.

7. On the last date i.e. on 03.07.2018, learned counsel for the petitioner stated that ₹ 57,00,000/- is due from the petitioner and he sought time to seek instructions. Inspite of the pointed query, no reasonable point has been offered by the petitioner for repayment of loan. It would be appropriate to note here that the installments are due since May, 2017. As per the statement of account dated 22.05.2017, the total installments overdue was ₹ 31,99,704/- and net receivable amount was ₹ 44,73,477/-. It would be pertinent to note that from May, 2017 almost ₹ 28,00,000/- is

further default has been committed due to non-payment of installments till date.

8. It appears that the petitioner is not willing to settle the account but the entire endeavour is to delay the re-payment. The petition filed lacks bonafide of the petitioner. No willingness has been established to repay the loan from April, 2017.

9. No case is made out for interference in exercise of the writ jurisdiction under Article 226 of the Constitution of India.

10. Accordingly, the present petition is dismissed.

[AJAY KUMAR MITTAL]
JUDGE

[AVNEESH JHINGAN]
JUDGE

11.07.2018
pankaj baweja

Whether speaking/reasoned ? *Yes / No*

Whether reportable ? *Yes / No*