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

**CWP No.17888 of 2017
Decided on 18.09.2018**

Munni Devi

Petitioner

Versus

ARCIL, Ludhiana and another

Respondents

* * *

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

Present : Mr. Ajaivir Singh, Advocate
for the petitioner.

Mr. Rajnish K. Jindal, Advocate
for respondent No.1.

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AVNEESH JHINGAN, J.

The present writ petition has been filed seeking quashing of notice dated 11.02.2016 (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') as well as order dated 20.07.2017 (Annexure P-8) passed by District Magistrate, Jalandhar under Section 14 of the Act.

2. The petitioner is the borrower. Assets Reconstruction Company (India) Ltd., Ludhiana (ARCIL) has been arrayed as contesting respondent in the writ petition.

3. The petitioner availed a loan facility of ₹5 lakhs in the year 2002 from the State Bank of India which was for a term of 15 years.

In order to secure the loan, the residential property i.e. House

No.20-P, Bhoor Mandi, Jalandhar Cantt., Jalandhar was mortgaged.

4. There was a default in repayment of loan. The loan account was transferred by State Bank of India to respondent No.1. Respondent No.1 issued notice under Section 13(2) of the Act on 11.02.2016. As per the notice, there was a total outstanding liability of ₹4,28,381/- which included principal amount of ₹1,88,000/-. On receipt of notice, the petitioner filed a civil suit and the same is pending before Civil Court, Jalandhar. In the meantime, respondent No.1 moved an application under Section 14 of the Act for taking over physical possession of the mortgaged property.

5. District Magistrate, Jalandhar passed an order dated 20.07.2017 appointing Tehsildar/Executive Magistrate, Jalandhar to take over physical possession of the mortgaged property and to handover the same to respondent No.1.

6. Aggrieved of the recovery proceedings, the present writ petition has been filed.

6. Learned counsel for the petitioner contended that there was a dispute with regard to calculation of the interest but the petitioner is ready and willing to pay the principal amount of ₹1,88,000/-.

Notice of motion was issued on 11.08.2017 and taking over of physical possession of the residential house was stayed subject to petitioner's depositing a sum of ₹1,88,000/- within one week.

7. In compliance to the undertaking, the petitioner deposited a sum of ₹1,88,000/-. Today in Court, the counsel for respondent No.1

produced a calculation sheet. Copy of the same is handed over to the learned counsel for the petitioner. As per the calculation sheet, respondent has adjusted ₹1,88,000/- deposited by the petitioner and after charging interest at the rate of 10%, outstanding amount is ₹3,05,658/-.

8. Learned counsel for the petitioner argued that the interest has not been correctly calculated and reconciliation of the account is required.

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

- (i) That petitioner shall, within seven days from today, approach the bank with her grievances against the calculation sheet provided today and shall also produce her own calculations.
- (ii) The Bank on receipt of the representation shall decide the same in accordance with law after affording an opportunity of hearing to the petitioner. The decision shall be taken at the earliest, but not later than one month from receipt of the representation.
- (iii) The petitioner shall pay the outstanding amount within one month from the date of decision. The interim protection granted vide order dated 11.08.2017 shall continue till the expiry of the period given in this order to the petitioner for clearing the

outstanding amount.

- (iv) It is clarified that in case of failure of the petitioner to clear the outstanding due amount, the petitioner shall hand over possession of the secured property to respondent No.1.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

September 18, 2018
pankaj baweja

Whether speaking/reasoned: Yes / No

Whether reportable : Yes / No