IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No. 17038 of 2018
Date of Decision : 16.07.2018.

Narinder and others

Petitioners

Versus

State of Haryana and others

Respondents

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

Present : Mr. Mandeep Singh Khillan, Advocate
for the petitioners.

AVNEESH JHINGAN, J.

The present writ petition has been filed with a prayer for quashing order dated 22.11.2017 (Annexure P-3) passed under Section 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SARFAESI Act').

2. It may be noticed at this stage that the order (Annexure P-3) has wrongly been annexed as Annexure P-2 with the writ petition.

3. The petitioners i.e. husband, wife and son applied for a loan from LIC Housing Finance Limited, Karnal-respondent No.3. On 18.07.2008, respondent No.3 sanctioned a loan of ₹ 5,00,000/- (Rupees Five Lakhs only). In order to secure the loan, the petitioners mortgaged House No. 1029, Sector-6, Urban Estate, Karnal.

4. The petitioners paid the installments regularly till April, 2011 and thereafter, defaulted in repayment of the loan. Respondent No.2

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declared the account of the petitioners as non-performing asset on 04.02.2015. A notice under Section 13(2) of the SARFAESI Act was issued. An application under Section 14 of the SARFAESI Act was made on 14.11.2017. The District Magistrate, Karnal-respondent No.2 passed an order dated 22.11.2017 appointing Tehsildar, Karnal as Duty Magistrate for purpose of taking possession of the mortgaged property. Aggrieved of the said order, the present writ petition has been filed.

5. Learned counsel for the petitioners contended that the petitioners are ready and willing to repay the loan. The default in repayment of loan occurred as petitioners suffered loss in the business.

6. We have heard learned counsel for the petitioners and perused the paper book.

7. Loan was sanctioned in the year 2008 and admittedly after April, 2011 no amount has been deposited for repayment of loan. According to the Foreclosure Statement dated 09.09.2017, an amount of ₹ 8,61,053/- (Rupees Eight Lakhs Sixty One Thousand and Fifty Three only) was due in September, 2017. More than seven years have passed since April, 2011 and not even a penny has been deposited by the petitioners. Even after obtaining the foreclosure statement, almost ten months have passed, no efforts have been made by the petitioners to repay the loan.

8. Apart from the oral assurance, nothing has been done by the petitioners to show the inclination to clear the defaulted amount. Inspite of pin-pointed query put to learned counsel for the petitioners, he has not shown any willingness to deposit any amount with the bank to show *bonafides* of the petitioners.

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9. The petition lacks *bonafides* of the petitioners. Petitioners have slept over the matter for almost seven years i.e. April, 2011. It is now only when the order for taking physical possession of the mortgaged property has been passed, the petition has been filed in this Court. Even now, no amount has been offered to be deposited with the bank.

10. No interference is called for in exercise of writ jurisdiction under Article 226/227 of the Constitution of India.

11. Accordingly, the present petition is dismissed.

[AJAY KUMAR MITTAL]
JUDGE

[AVNEESH JHINGAN]
JUDGE

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Whether speaking/reasoned ? *Yes / No*

Whether reportable ? *Yes / No*

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