

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

CWP No.17606 of 2018
Date of decision : 27.08.2018

Binny Chawla and another

..... Petitioners

VS

Oriental Bank of Commerce and another

..... Respondents

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

Present:- Mr.Pranav Handa, Advocate for
Mr.Shakti Mehta, Advocate
for the petitioners.

Mr. Raj Kumar, Advocate
for the respondents.

AVNEESH JHINGAN, J.

This writ petition has been filed seeking quashing of possession notice dated 21.02.2018 (Annexure P-4) issued under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (for brevity, 'the Act') and notice dated 30.06.2018 (Annexure P-5) whereby the mortgaged property was put to sale. Further, a prayer has been made that the respondents be restrained from dispossessing the petitioners from property No. 144A situated at backside of Gurudwara Sangat Sabha and in street opposite langar hall of Gurudwara Gharami Patti, Ward No.6, Tehsil Samana, District Patiala.

2. Petitioner No.1 is son of late Shri Mohan Lal and petitioner No.2 is widow of late Shri Mohan Lal. Oriental Bank of Commerce, Patiala and Oriental Bank of Commerce, Samana Branch have been arrayed as respondents No.1 and 2 respectively in the writ petition.

3. Late Shri Mohan Lal was proprietor of M/s Binny Creation. The firm was situated at near Post Office Road, Tehsil Samana, District Patiala. Shri Mohan Lal availed a cash credit facility for a sum of ₹8 lakhs in the year 2010 from respondent No.2. The said cash credit facility was increased from time to time by the bank and ultimately the limit was enhanced to ₹17 lakhs vide letter dated 15.12.2016. In order to secure the cash credit facility, House No. 144A situated at backside of Gurudwara Sangat Sabha and in street opposite langar hall of Gurudwara Gharami Patti, Ward No.6, Tehsil Samana, District Patiala, was mortgaged with the bank. Shri Mohan Lal expired on 09.03.2018. There was default in repayment of amount. Respondent No.2 issued a demand notice dated 18.12.2017 under Section 13(2) of the Act. As per notice, the amount of ₹17,53,244/-was outstanding. The petitioners failed to pay the amount in pursuance to the notice under Section 13(2) of the Act. Thereafter, respondent No.2 issued a notice dated 21.02.2018 under Section 13(4) of the Act. The mortgaged property was put to auction vide letter dated 30.06.2018 on 31.07.2018.

4. Aggrieved of the auction, the present writ petition has been filed.

5. On 30.07.2018, learned counsel for the petitioners in order to prove the bonafides of the petitioners, produced a demand draft bearing No.760730 dated 30.07.2018 for a sum of ₹5 lakhs. The petitioners were directed to deposit the demand draft with the bank which was to be accepted by the bank without prejudice to its rights. Notice of motion was issued. As an interim measure, it was ordered that auction fixed for 31.07.2018 may continue but the same shall not be finalised without prior permission of the Court.

6. Heard learned counsel for the parties.
7. Learned counsel for the respondents stated that no bids were received for the mortgaged property in the auction fixed for 31.07.2018.
8. Learned counsel for the petitioners contended that the petitioners want to settle the matter amicably and to repay the amount.
9. No bid has been received in the auction fixed for 31.07.2018. The grievance of the petitioners against the notice dated 30.06.2018 putting the mortgaged property to sale, no longer exists, as such the writ petition has been rendered infructuous.
10. However, the petitioners would be at liberty to approach respondent No.2 for amicably settling the outstanding dues. In case, such an offer is made by the petitioners, the bank would sympathetically consider the same.
11. The writ petition is, accordingly, disposed of.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

27.08.2018
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Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No