

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

CWP No.18371 of 2018
Decided on : 30.11.2018

Nisha Devi

..... Petitioner

Versus

State Bank of India & ors.

..... Respondents

**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. Parveen Kumar Rohilla, Advocate
for the petitioner.

Mr. Anandeshwar Gautam, Advocate
for the respondents.

Manjari Nehru Kaul, J.

The instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of writ in the nature of Certiorari for quashing the notice dated 03.03.2018 (Annexure P-2) and possession notice dated 15.05.2018 (Annexure P-3) issued under Sections 13(2) and 13(4) respectively of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred as 'the Act').

2. Varinder Singh, cousin brother of the petitioner had availed an agricultural loan of ₹ 11,24,000/- in the year 2015 for expansion of his business. The petitioner had stood as guarantor of the said loan. The following property of the petitioner was taken as the secured asset:

“Residential plot comprised in Khewat No.91/80, Khatoni No.108, Khasra No.40/7/2(7-2), Khewat No.92/81, Khatoni No.109, Khasra No.40/12 (8-0) having share 10/302

out of 15 kanal 2 marla measuring 10 marla situated at S.P.Colony, Phoosgarh, Karnal owned by Smt. Nisha Devi w/o Sh. Sanjeev Kumar”

3. Since the borrower failed to discharge his financial liability, his account was classified as Non-Performing Asset (NPA) on 28.05.2017. The respondent-bank through his counsel sent a legal notice dated 14.11.2017 to the borrower and the guarantor i.e. petitioner informing them that an amount of ₹ 10,57,368.65 is due with interest as on 10.11.2017. Thereafter, respondent-bank issued notice dated 03.03.2018 (Annexure P-2) and possession notice dated 15.05.2018 respectively under Section 13(2) and 13(4) of the Act. Hence, the present petition has been filed.

4. While issuing notice of motion on 27.07.2018 interim protection was granted to the petitioner by this Court.

5. In pursuance to order dated 25.10.2018, Mr. Vajinder Behl, Branch Manager, State Bank of India, Specialised Agri. Commercial Branch, SCO No.18, HSIDC, Indl. Area, Sector 3 is present in Court in person.

6. Learned counsel for the petitioner has submitted that the borrower Varinder Singh had deposited an amount of ₹ 6,15,813/- with the respondent- bank upto 18.12.2017, details of which are referred to in para 2 of the writ petition. Learned counsel for the petitioner has further submitted that the petitioner is ready and willing to clear the outstanding dues or to regularize the account of the borrower within a reasonable period of time.

7. Heard learned counsel for the parties and perused the paper book with their assistance. Without expressing any opinion on the merits of

the case and keeping in view the facts and circumstances of the case, we dispose off the present petition with the following directions:

1. The petitioner shall approach respondent-bank within a period of 15 days from today with a proposal for clearing the outstanding dues or to regularize the loan account.
 2. Respondent-bank shall consider the proposal submitted by the petitioner sympathetically in accordance with law, after affording an opportunity of hearing to the petitioner and pass a speaking order.
 3. The decision on the proposal shall be taken at the earliest by the respondent-bank but not later than two months from the receipt of such proposal.
 4. It is clarified that in case the petitioner fails to submit her proposal within the specified time, the respondent-bank would be at liberty to proceed in accordance with law.
8. The interim protection granted vide order dated 27.07.2018 regarding status quo shall continue till the decision is taken by respondent bank on the proposal submitted by the petitioner. However, it is clarified that the extension of the interim protection shall not be construed as an expression of opinion on the merits of the case by this Court.

(MANJARI NEHRU KAUL)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

30.11.2018
sonia

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No