

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

**CWP No. 19580 of 2018
Decided on : 13.08.2018**

M/s Guru Vishuddha Nand Shiksha Samiti, Palwal and others

Petitioners

Versus

State of Haryana and others

Respondents

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

Present : Mr. Aalok Jagga, Advocate
for the petitioners.

Ms. Pragya Malhotra, Advocate for
Mr. C.S. Pasricha, Advocate
for respondent No.3.

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AVNEESH JHINGAN, J.

The present writ petition has been filed seeking quashing of notices dated 15.04.2017 (Annexure P-10) and 20.06.2017 (Annexure P-11) issued under Section 13(2) and Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SARFAESI Act'), respectively. Further prayer has been made for quashing of sale notice dated 16.07.2018 (Annexure P-14) and notice dated 04.07.2018 (Annexure P-16) issued by District Magistrate, Palwal on an application filed under Section 14 of the SARFAESI Act.

2. The petitioner No.1 in the writ petition is a Society registered under Haryana Registration and Regulation of Societies Act, 2012. The Society was set up primarily for the purpose of providing education to the children. Petitioner Nos.2-8 are the persons who have mortgaged one residential house to secure the loan of the Society.

3. Secretary, Department of Finance, State of Haryana; District Magistrate, Palwal and Central Bank of India, Faridabad have been arrayed as respondent No.1 to 3 in writ petition.

4. Petitioner No.1, in order to construct building and to purchase other fixed assets for running the institution, took a loan of ₹2.50 crores from respondent No.3. The loan was sanctioned on 09.06.2011. The loan was to be repaid in 6 years, in 24 equated quarterly installments. In order to secure the loan, equitable mortgage of land & building of the college situated at Village Deghot, District Palwal and a residential house situated at 767, Gali No.5, Green Wood School, New Extension Colony, Palwal were made. The residential house measuring 363 sq. yards was jointly owned by petitioners No.2 to 8.

5. The petitioner No.1 took another loan of ₹2.5 crores on 20.06.2012 from respondent No.3. This loan was also to be repaid within a period of 6 years, in 24 equated quarterly installments.

6. Petitioner No.1, due to financial constraints, was not able to make timely repayment of the loans. The loan account was declared as Non-Performing Asset (N.P.A.). The bank issued notice under Section 13(2) of the SARFAESI Act on 15.04.2017. As per the

notice, due amount as on 01.04.2017 was ₹5,62,06,735.00. Thereafter, a notice under Section 13(4) of the SARFAESI Act was issued on 20.06.2017. The bank issued a sale notice for auctioning the polytechnic college and the residential house. Auction was fixed for 10.07.2018, reserved prices for polytechnic college and residential house were fixed as ₹801.51 lakhs and ₹66.72 lakhs, respectively.

7. Aggrieved of the auction, the petitioners filed the present writ petition. Notice of motion was issued vide order dated 08.08.2018.

8. Learned counsel for the respondent No.3-bank informed the Court that no bid has been received for auction of the residential house. In view of statement made by the learned counsel for respondent No.3, the grievances of the petitioners against the auction notice, no longer survives.

9. Learned counsel for the petitioners, at this stage, stated that the petitioners are ready to purchase the residential house at reserved price of ₹66.72 lakhs, fixed by the bank and proposal for the same would be made to the bank. He further stated that 25% of the reserved price of residential house would be deposited within one week from today.

10. Without expressing any opinion on the merits, the writ petition is disposed of with a direction that in case the petitioners submit the proposal to respondent No.3 for purchase of residential house for ₹66.72 lakhs alongwith upfront payment of 25% of the said amount, the bank would consider the same sympathetically. The decision on the proposal would be taken by the bank after affording an opportunity of hearing to the petitioners.

11. *Status quo* shall be maintained with regard to the residential house subject to the petitioners depositing ₹16.68 lakhs within seven days from today.

12. In case the petitioners fails to deposit the above said amount, they would peacefully handover the possession of the residential house to respondent No.3. It is however clarified that if the petitioners backs-out from their offer of purchasing the residential house on the reserved price, the amount deposited upfront would be forfeited by respondent No.3.

13. The writ petition is disposed of, accordingly.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

13.08.2018
pankaj baweja

Whether speaking/reasoned: Yes / No
Whether reportable : Yes / No