212 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-21510-2017(O&M)
Date of decision : 23.01.2018

Suman Guglani and others

.... Petitioners

versus

Punjab National Bank and others .... Respondents

CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE DR.SHEKHER DHAWAN

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Present: Mr.Ashok Aggarwal, Sr. Advocate with
Mr.Manish Jain, Advocate for the petitioners.

Mr.D.K.Gupta, Advocate for respondents No. 1 and 4.

Mr.R.S.Bhatia, Advocate for respondent No.2.

Mr.Sandeep Suri, Advocate for respondent No.3.

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SURYA KANT, J. (Oral)

The petitioner-borrowers and a group of companies in which they are Directors have availed multiple loan facilities from the respondent-banks(four in number). They have also availed housing loan from respondent No.1 (Punjab National Bank-in short PNB) and as a collateral security, two properties i.e. one residential house and one residential plot both situated at Panchkula have been mortgaged with PNB who has the first charge on those properties. PNB classified the housing loan account as NPA and a notice under Section 13(2) of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (known as the 'SARFAESI Act') has been issued on 04.08.2017. The petitioners now seek a restraint order against PNB from taking any further action pursuant to the said notice.

It is not in dispute that the PNB has taken only symbolic possession and its learned counsel states that physical possession will be taken after having measures under Section 14 of the SARFAESI Act, for which the bank has yet not moved any application before the District Magistrate. It thus appears that the process of taking physical possession of the secured assets will take some time. Meanwhile, the Committee of Creditors has taken 90 days' time from National Company Law Tribunal(NCLT), Chandigarh bench to formulate the proposal regarding repayment of the loans.

It may be mentioned here that petitioners have offered to pay the sale consideration for both the mortgaged properties as per the valuation report of the PNB but their proposal is not acceptable to the PNB as there is further charge on both the properties for the other loans availed by the companies in which the petitioners have stood guarantors.

In such like situation, this Court cannot compel the PNB to accept the conditional offer made by the petitioners. The only effective recourse would be to direct the petitioners to submit their proposal before the Committee of Creditors, if already not submitted, within a week and let the said Committee take its decision, preferably within one month but in no circumstances beyond 45 days. During this period, the PNB may continue with the proceedings under the SARFAESI Act in respect of the above mentioned two secured assets but physical possession may not be taken till the decision to be taken by the Committee of Creditors.

Petition stands disposed of accordingly.

CM-17183-2017

CM allowed. Annexures R-1/1 and R-1/2 are taken on record.

CM-270-2018

Since the main case has been decided, this application has become infructuous and is dismissed as such.

(SURYA KANT)
JUDGE

(SHEKHER DHAWAN)
JUDGE

January 23, 2018
sunita

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No