127

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.20379 of 2018
Decided on : 16.08.2018

* * *

Reena Rani and another

Petitioners

Versus

ICICI Home Finance Company Ltd., New Delhi and another

Respondents

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

Present : Mr. Vinay Pandey, Advocate
for the petitioners.

* * *

AVNEESH JHINGAN, J.

The writ petition has been filed seeking direction to the respondents not to take any coercive measures to recover loan and restraining the respondents from taking physical possession of mortgaged house. Further prayer has been made that respondents be directed to release the original title deeds of the mortgaged property so as to enable them to sell the house and repay the loan.

2. The ICICI Home Finance Company Limited, New Delhi and District Magistrate, Kurukshetra have been arrayed as respondents No.1 and 2 in the writ petition.

3. The petitioners availed loan facility of ₹14,70,000/- from respondent No.1 and to secure the loan, House No. 1171, Sector 3, Urban Estate, Tehsil Thanesar, District Kurukshetra was kept as a collateral security. The petitioners are carrying on business of

PANKAJ BAWEJA
2018.08.24 15:56
I attest to the accuracy and
integrity of this document
High court, Chandigarh

fabrication of heavy motor vehicles and repair thereof. The petitioners, due to financial crisis, defaulted in repayment of installments due. The loan account was declared as Non-Performing Asset (NPA) on 12.11.2016. Respondent No.1 served notices dated 28.02.2017 under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SARFAESI Act'). As per notices, an amount of ₹14,73,586/- was due on 28.02.2017. The petitioners neither made any effort to repay the loan nor filed any reply. Notice under Section 13(4) of the SARFAESI Act was issued. Thereafter, an application was moved under Section 14 of the SARFAESI Act for seeking police assistance for taking over physical possession of the secured property. The respondent No.2, vide order dated 25.07.2018, ordered Police help for taking over the possession. At this juncture, petitioners approached this Court by filing the writ petition.

4. Learned counsel for the petitioners contended that the petitioners are willing and ready to repay the outstanding loan amount. He further contended that original title-deeds should be released in favour of the petitioners so that they can sell the secured asset and repay the amount.

5. It would be appropriate to consider that though it is being contended that petitioners are ready and willing to repay the loan amount but the fact is that after the account being classified as NPA i.e. from almost 21 months, not even a single penny has been deposited. The petitioners neither bothered to file any reply to the notices received under Section 13(2) of the SARFAESI Act nor any

PANKAJ BAWEJA
2018.08.24 15:56
I attest to the accuracy and
integrity of this document
High court, Chandigarh

proposal was put forth before the respondent-bank for repayment of loan.

6. During the course of arguments on a pointed query, learned counsel for the petitioners stated that he has no instructions that the petitioners are ready to make any upfront payment to establish their *bonafides*. Even at this stage, no concrete proposal for repayment of the outstanding loan amount has been put-forth. Even otherwise, there is no willing buyer of the property with the petitioner to enable them to repay the outstanding amount. Apart from the bald statement being made regarding willingness to repay the loan, the said statement is not supported by any effort. The petition lacks *bonafide.*

7. No case is made out for interference in exercise of writ jurisdiction by this Court under Article 226 of the Constitution of India.

8. The writ petition is dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

16.08.2018
pankaj baweja

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

PANKAJ BAWEJA
2018.08.24 15:56
I attest to the accuracy and
integrity of this document
High court, Chandigarh