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

CWP No.21314 of 2018
Decided on : 22.11.2018

Jaswinder Singh & anr. ...... Petitioners

Versus

Canara Bank and another ...... Respondents

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

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

Mr. Pardeep Sharma, Advocate for
Mr. Gaurav Goel, Advocate
for the respondents.

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Manjari Nehru Kaul, J.

The instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing the notice dated 26.10.2015 (Annexure P-1) and subsequent order dated 04.10.2016 (Annexure P-2) issued by the respondents under Section 13/14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'Act').

2. The petitioners had initially taken a home loan of ₹ 7.5 lakhs on the monthly installment of ₹ 7,700/-. Thereafter, on 17.05.2014, the petitioners took another loan of ₹ 10 lakhs under the home loan category on the monthly installment of ₹ 9,000/-. In order to secure the credit facilities availed, the petitioners mortgaged the following property:

> *"Residential house of 500 sq. yards situated at Sandhu Colony, Village Bhadson, Tehsil Nabha, District*

Patiala owned by Mr. Jaswinder Singh Khata No.17/39 Khasra No.1022/873/409/(0-4-10) 1015/399(1-5) 1013/670/395(0-10) measuring 1B-19B-10B (its 200/790 shared i.e. 0-10 Biswas 500 sq. yards."

3. Since the petitioners were unable to maintain financial discipline, their loan accounts were declared as Non-Performing Asset (in short 'NPA') by the bank on 29.09.2015. The respondent-bank then initiated the proceedings under Section 13(2) of the Act for the payment of loan amounting to ₹ 19,43,278/- along with interest upto 12.10.2015. Thereafter, a possession notice dated 04.10.2016 (Annexure P-2) was issued to the petitioners. Hence, the present writ petition has been filed.

3. Vide order dated 24.08.2018, notice of motion was issued in the following terms:

" Learned counsel for the petitioners inter alia submitted that two term loans were sanctioned. In one loan amount of ₹ 7,50,000/- was sanctioned in April 2014 whereas the second loan was for construction amounting to ₹ 10,000,00/- which was sanctioned on 17.5.2014. It was urged that the amount was required to be repaid in 180 installments and the account was declared NPA on 29.9.2015. On these premises, learned counsel for the petitioners contended that the over due installments stand cleared till date and the accounts are required to be declared as regularized as the petitioners have deposited the following amount:

17.03.2017	*Rs.1,00,726/-*
20.03.2017	*Rs.49,274/-*
30.06.2018	*Rs.5,75,000/-*
21.06.2018	*Rs.50,000/-*
Total	*Rs.7,75,000/-*

Notice of motion to respondent No.1 only for 6.10.2018.

Notice re: stay.

Process dasti.

At this stage, Mr. Gaurav Goel, Advocate for Mr. Suresh Goel, Advocate, accepts notice on behalf of respondent No.1 and prays for time to get instructions.

In the meantime, status quo shall be maintained by the parties."

4. Learned counsel for the petitioners submitted that the petitioners are ready and willing to clear the outstanding dues or to regularize their account within a reasonable period and restricted his prayer to the effect that in order to clear outstanding dues or to regularise the accounts, the petitioners would approach the respondent-Bank with a proposal and the respondent-Bank be directed to decide the same in a time bound manner.

5. Learned counsel for the respondent-bank has submitted that in case a reasonable proposal is made by the petitioners, the respondent-Bank shall consider the same.

6. Heard learned counsel for the parties and perused the paper book with their assistance.

7. Without expressing any opinion on the merits of the case and keeping in view the facts and circumstances of the case, we dispose of the present petition with the following directions:

1. The petitioners shall approach respondent-bank within one month from today with a proposal for clearing the outstanding dues or to regularize the loan account.
2. The petitioners shall deposit a demand draft of ₹ 50,000/- alongwith the proposal.
3. Respondent-bank shall consider the proposal submitted by

the petitioners sympathetically in accordance with law, after affording an opportunity of hearing to the petitioners and pass a speaking order.

4. 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.
5. It is clarified that in case the petitioners fail either to submit their proposal within the specified time or fail to deposit a sum of ₹ 50,000/-, the respondent -bank would be at liberty to proceed in accordance with law.

8. The interim protection granted vide order dated 24.08.2018 regarding status quo shall continue till the decision is taken by respondent bank on the proposal submitted by the petitioners. 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

22.11.2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No