

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

CWP No. 22477 of 2018

Decided on : 19.09.2018

Ram Prashad Jain

..... Petitioner

Versus

Dena Bank and another

..... Respondents

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

Present : Mr.Pardeep Bajaj, Advocate
for the petitioner.

Mr.Sumit Batra, Advocate
for the respondents.

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AVNEESH JHINGAN, J.

The present writ petition has been filed seeking quashing of e-auction and sale notices dated 02.08.2018 (Annexures P-1 and P-2) respectively.

2. The petitioner availed a housing loan facility in the year 2004 to the tune of ₹6 lakhs from Dena Bank, Mata Rani Chowk Branch, Ludhiana (hereinafter referred to as, 'the respondent'). In order to secure the loan facility, the petitioner mortgaged residential property Plot No.120, Gali No.2, Simranjeet Singh Nagar, Near Karamsar Colony, Tibba Road, Ludhiana.

3. There was a default in repayment and the account was classified as non performing asset (NPA) in 2016. The respondent issued a demand notice under Section 13(2) of the Securitisation and

Reconstruction of Financial Assets and Enforcement of Securities Interest

Act, 2002 (for brevity, 'the Act') on 21.02.2017. As per the notice, there were outstanding dues of ₹4,40,701/- as on 21.01.2017 with interest calculated upto 27.03.2016. The respondent-bank continued proceedings under the Act and took a physical possession of the mortgaged property on 15.06.2018. Thereafter, the property was put to e-auction by issuing a notice dated 02.08.2018. Being aggrieved of the fixation of the auction of the mortgaged property, the present writ petition has been filed.

4. On 05.09.2018, learned counsel for the petitioner contended that the petitioner is ready to discharge the outstanding liability on or before 31.12.2018. He produced a banker's cheque amounting to ₹76,000/- in order to show the bonafides of the petitioner. The original banker's cheque was returned to the learned counsel for the petitioner with a direction to deposit the same with the respondent-bank within three days. The petitioner undertook that another demand draft of ₹1 lakh shall be produced within 10 days. Notice of motion was issued on 05.09.2018. It was ordered that the auction scheduled for 07.09.2018 shall continue, however, the same shall not be confirmed without prior permission of this Court. During the pendency of the writ petition, civil miscellaneous application No.14242 of 2018 for extension of time was filed.

5. In the application, it was submitted that the petitioner had deposited ₹40,000/- out of ₹1 lakh as undertaken before this Court on 05.09.2018 and prayer was made for extension of time to deposit the balance amount of ₹60,000/-. After notice, the application was allowed. The time was extended by 10 days from today to deposit the balance amount of ₹60,000/-.

6. Heard learned counsel for the parties.

7. Learned counsel for the petitioner contended that the petitioner would clear the entire dues upto 31.12.2018.

8. Learned counsel for the respondents submitted that the bank has no objection, if the petitioner clears the defaulted amount upto 31.12.2018 in a time bound manner.

9. The writ petition is disposed of with a direction that the petitioner shall approach the respondent-bank within 15 days from today to clear the outstanding amount upto 31.12.2018. The respondent would consider the same and fix a schedule for the petitioner to clear the overdues upto 31.12.2018.

10. On payment of the entire outstanding dues, the respondent would release the title deeds of the mortgaged property to the petitioner.

11. It is, however, clarified that in case of any default by the petitioner to repay the outstanding dues as per schedule fixed, including the payment of ₹60,000/- to be deposited within the extended time, the physical possession of the mortgaged property shall be handed over by the petitioner to the bank.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

September 19, 2018
anju

Whether speaking/reasoned: Yes/No

Whether reportable : Yes/No