246 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 22519 of 2018
DECIDED ON: OCTOBER 11, 2018

SHAM SUNDER & ANOTHER

.....PETITIONERS

VERSUS

AUTHORISED OFFICER, BANK OF INDIA & OTHERS

.....RESPONDENTS

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

Present : Mr. Atul Sharma, Advocate
for the petitioners.

Ms. Neha, Advocate for
Mr. KPS Dhillon, Advocate
for the respondents.

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AVNEESH JHINGAN, J

The instant petition has been filed being aggrieved of action of respondent-Bank classifying the account of the petitioners as Non Performing Asset (NPA) and also against the filing of application under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act').

2. Petitioners are the borrower of loan. Authorized Officer, Bank of

India, Branch Bhogpur, Bank of India, Bhogpur Branch and Kishore Kumar, Manager, Bank of India, Bhogpur have been arrayed as respondents No.1 to 3 respectively, in this writ petition.

3. Petitioners availed a loan amounting to ₹19,50,000/- on 20.05.2015. In order to secure the credit facility availed, petitioners mortgaged their commercial property measuring 7.13 Marlas (after acquisition) (one Marla =272.25 sq. ft.) (6.7 Marlas as per latest jamabandi situated at G.T. Road, Bhogpur, Tehsil and District Jalandhar. Comprised in Hadbast No. 18, Khewat/Khatauni No. 177/243, 617/732 Khasra No. 70//1/1 (1-0) and 70/1 (3-1) as per jamabandi period 2011-2012.

4. There was a default in repayment of loan and the account was declared Non Performing Asset (NPA) on 30.06.2017. The respondent-Bank issued a notice dated 12.07.2017, under Section 13(2) of the Act. Subsequent thereto, another notice dated 12.01.2018 under Section 13(2) of the Act was issued. As per the notices, there was an outstanding amount of ₹18,61,996/-. Thereafter, respondent-bank moved an application under Section 14 of the Act before the District Magistrate, Jalandhar. Aggrieved of the recovery proceedings, present writ petition has been filed.

5. On 06.09.2018, learned counsel for the petitioners contended that petitioners are ready to discharge the outstanding dues. In order to show their *bona fide*, a demand draft of ₹3,00,000/- was produced in Court. The original demand draft was returned to the learned counsel for the petitioners with a direction to deposit the same with the respondent-Bank within a week. In the meantime, it was ordered that *status quo,* shall be maintained by the parties till

the next date of hearing.

6. Heard learned counsel for the parties.

7. Learned counsel for the petitioners submitted that the petitioners have deposited a demand draft amounting to ₹3,00,000/- in compliance of order dated 06.09.2018. He further contended that there is a scheme for One Time Settlement (OTS) of the respondent-Bank and petitioners would apply under the said scheme, respondent-Bank be directed to consider the same within a time bound manner.

8. Learned counsel for the respondents argued that in case OTS proposal is submitted by the petitioners, the same would be considered in accordance with law.

9. Without expressing any opinion on the merits of the case, instant petition is disposed of with the following directions:-

(i) That petitioners would submit a proposal of OTS within two weeks from today. Alongwith the OTS proposal, petitioners shall deposit a draft of ₹5,00,000/-;

(ii) The respondent-bank on receipt of proposal shall consider the same in accordance with law, after giving an opportunity of hearing to the petitioners and by passing a speaking order;

(iii) A decision shall be taken by the respondent-bank on the OTS proposal submitted by the petitioners at the earliest but not later than one month from the date of submission of proposal;

(iv) The *status-quo*, granted by this Court vide order dated 06.09.2018 shall continue till 31.12.2018;

(v) However, it is clarified that grant of interim protection shall not be construed as an expression on merits of the case by this Court;

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

OCTOBER 11, 2018
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Whether speaking/reasoned: Yes / No
Whether reportable : Yes / No