

222

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

**CWP No.24417 of 2017
Decided on : 20.08.2018**

* * *

Parampal Singh Tinna and others

Petitioners

Versus

Authorized Officer, Oriental Bank of Commerce and others

Respondents

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

Present : Mr. Gurpreet Singh, Advocate
for the petitioners.

Mr. Anil Kumar Ahuja, Advocate
for the respondents.

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AVNEESH JHINGAN, J.

This writ petition has been filed seeking quashing of notice dated 18.05.2017 (Annexure P-11) issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act') and possession notice dated 10.08.2017 (Annexure P-13) issued under Section 13(4) of the Act. Further prayer has been made for quashing of order dated 08.08.2017 (Annexure P-12) passed by Permanent Lok Adalat (Public Utility Services), Ferozepur.

2. Petitioner No.1 and 2 are the parents of petitioner No.3 and the guarantors of study loan availed by petitioner No.3.

3. Authorized Officer of Oriental Bank of Commerce, Abohar, District Fazilka; Oriental Bank of Commerce, Abohar, District Fazilka and Manager, Regional Head (Bathinda), Oriental Bank of Commerce, Bathinda have been arrayed as respondent No.1 to 3 respectively, in the writ petition.

4. The petitioners approached respondents No.1 and 2 for sanctioning of education loan for study of respondent No.3. The respondent No.3 was to join two years' full time course of Study in Higher Certificate in Business at IBAT College, Dublin, Ireland. After completion of the formalities, a loan of ₹19,00,000/- was sanctioned by the bank. For repayment of loan, there was a moratorium period of 36 months and it was to be repaid in 120 monthly installments.

5. The petitioners No.1 and 2 stood guarantors to the loan and the loan was secured by mortgaging residential property of 6.5 marlas in Rect No.11, Killa No.4/2(7-12), Khewat No. 2391, Khatauni No. 3390 situated at Village Azimgarh, Tehsil Abohar, District Fazilka. There was some dispute regarding sanctioning of loan between the petitioners and bank officials. It is also alleged that loan was disbursed late and as a result thereof the petitioner No.3 joined the course at Dublin commencing from 17.02.2014, in tune with the 3rd offer letter given by the IBAT College, Dublin. As per terms & conditions, the bank disbursed a sum of ₹9,52,800/- for expenses towards first year of the course.

6. The petitioner no.3 failed to clear his first year of the course and was not given admission in the second year. For this reason, the bank did not disburse the balance education loan.

Petitioner No.3 changed his course thrice at Dublin and insisted for release of the balance loan amount.

7. Petitioner No.3 had breached the covenants of the education loan and failed to repay the loan. The bank started proceedings under the Act. A demand notice under Section 13(2) of the Act was issued on 18.05.2017 calling upon the petitioners to repay the sum of ₹13,84,308/-. On receiving notice, the petitioners filed a complaint before the Permanent Lok Adalat (Permanent Utility Services) Ferozepur for directions to the bank to disburse the balance loan. The complaint was dismissed on 08.08.2017. The Lok Adalat held that the proceedings involved complicated questions of law & facts and it has no jurisdiction to entertain and decide the complaint. However, liberty was granted to the complainants to approach the appropriate Forum/Court for getting the relief. Thereafter, bank issued possession notice dated 10.08.2017 under Section 13(4) of the Act.

8. The petitioners being aggrieved of issuance of notices, filed Securitization Application (SA) bearing SA No. 467 of 2017 before the Debts Recovery Tribunal, Chandigarh ('D.R.T.') and the same is still pending. In the SA filed, the prayer is for quashing of demand notice dated 18.05.2017 and possession notice dated 10.08.2017.

9. After availing the remedy under the Act, the present writ petition has been filed with the same prayer as has been made in SA before the DRT.

10. In the writ petition various disputed questions of facts have been raised. Moreover, having availed the alternative remedy

the petitioners cannot be permitted to avail the parallel remedy by way of writ petition.

11. The wit petition is accordingly dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

20.08.2018
pankaj baweja

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