IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 26027 of 2018

Date of Decision: 09.10.2018

Rajesh Kumari ....Petitioner

Versus

Sub-Divisional Magistrate, Kharar and another ......Respondents

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

Present: Mr. Dilpreet Singh Takkar, Advocate
for the petitioner.

AVNEESH JHINGAN, J.

The present writ petition has been filed seeking direction to respondent No.1-Sub Divisional Magistrate, Kharar, not to take any coercive action against the petitioner in terms of notices issued by respondent No.2-ICICI Bank, under Section 13(2) and Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act').

2. The petitioner is a co-borrower of a housing loan. Sub Divisional Magistrate, Kharar and ICICI Bank, Sector-9 Branch, Chandigarh, have been arrayed as respondents No. 1 and 2 respectively in this writ petition.

3. The petitioner alongwith her husband availed a housing loan of Rs.68 lakhs. In order to secure the credit facility availed, House No.3 (old Address) Ashok Enclave Ward No.4, Deshmajra, Kharar, Punjab, House No.1292, (New Address) Block B-23, Deshmajra, Khasra No. 27/18/2 (4-0) Khewat No.344/405, Kharar Punjab admeasuring an area of 0 Kanal 7-1/4

Marla, was mortgaged. Unfortunately, the petitioner lost her husband on 13.10.2015. Consequently, there was a default in repayment of loan and the account was declared as Non-Performing Asset (NPA) on 10.07.2017. The respondent-Bank issued notice under Section 13(2) of the Act on 27.02.2018. As per notice, there was an outstanding due of Rs. 68,12,440/-. Thereafter notice dated 12.06.2018 was issued under Section 13(4)of the Act. A pre-sale notice was issued on 20.08.2018. Aggrieved of the recovery proceedings, the present writ petition has been filed.

4. Learned counsel for the petitioner argued that the petitioner has a proposed buyer who will purchase the mortgaged property and clear the entire outstanding lability.

5. The present petition has been filed without approaching the Bank with the proposal that the proposed buyer of the mortgaged property would clear the outstanding dues.

6. This writ petition is disposed of with liberty to the petitioner to approach the Bank by filing a representation or to avail alternative remedies as are available in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

09.10.2018
reema

Whether speaking/reasoned Yes/No
Whether Reportable: Yes/No