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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.27757 of 2017
Decided on 24.09.2018

Balwinder Kaur

Petitioner

Versus

Bank of Baroda Branch Khanna Road, Samrala, Ludhiana and another

Respondents

* * *

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

Present : Mr. Deepak Aggarwal, Advocate
for the petitioner.

Mr. Ashok Kumar Khubbar, Advocate
for the respondents.

* * *

AVNEESH JHINGAN, J.

The present writ petition has been filed seeking quashing of notice dated 05.05.2015 (Annexure P1) issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act') and order dated 29.08.2017 (Annexure P4) passed by the Addl. District Magistrate, Khanna for taking over the physical possession of the mortgaged property.

2. The petitioner is the widow of the borrower. Bank of Baroda, Samrala, District Ludhiana and Addl. District Magistrate, Khanna have been arrayed as respondents No.1 and 2 respectively, in this writ petition.

3. Sh. Manjit Singh, late husband of the petitioner, availed over

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draft limit of ₹10 lakhs from respondent No.1. The loan was sanctioned vide letter dated 31.12.2008. He also availed a car loan of ₹8 lakhs which was sanctioned on 13.08.2011. The over draft limit was enhanced from ₹10 lakhs to ₹20 lakhs. In order to secure the loan House No. 323, Ward No. 11, Durlabh Nagar, Samrala, District Ludhiana owned by Ms. Harbhajan Kaur, mother-in-law of the petitioner was mortgaged. The husband of the petitioner suffered from various ailments and he suffered paralysis attack. Due to the health conditions of the husband of the petitioner, there was a default in repayment of loan. The respondent-bank issued notice dated 30.04.2015 under Section 13(2) of the Act. As per the notice, there was an outstanding amount of ₹26,79,011/-. The husband of the petitioner died on 19.08.2017. In the meantime, the respondent-bank continued the proceedings under the Act and moved an application under Section 14 before the District Magistrate. An order dated 29.08.2017 was passed by respondent No.2 for providing assistance to take over physical possession of the mortgaged property.

4. Being aggrieved of the recovery proceedings, the present writ petition has been filed.

5. On 06.12.2017, learned counsel for the petitioner submitted that inspite of the fact that the husband of the petitioner was bed ridden, a sum of ₹4 lakhs was deposited on 02.06.2016 and the petitioner is ready and willing to repay the loan amount in installments. In order to show the *bona fides,* she would deposit ₹2 lakhs within one week. Notice of motion was issued. *Status quo* regarding possession of the mortgaged property was ordered to be maintained subject to petitioner's depositing ₹2 lakhs within one week.

6. Heard learned counsel for the parties.

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7. Learned counsel for the petitioner contended that a sum of ₹2 lakhs has been deposited and the petitioner is ready to deposit another sum of ₹2 lakhs. He argued that the petitioner is widow. During the recovery proceedings, even her mother in law has died. Inspite of all the odds against her, she is ready to clear the outstanding amount in reasonable installments.

8. Learned counsel for the respondent-bank argued that the petitioner has not approached for restructuring of loan or clearing the outstanding amount.

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

1. ***The petitioner shall within 15 days from today make a representation to the respondent-bank for restructuring of loan or for clearing the outstanding dues. Alongwith the representation, she would make a deposit of ₹2 lakhs.***
2. ***The respondent-bank shall decide the representation sympathetically at the earliest but not later than one month on receipt of the representation, in accordance with law.***
3. ***The interim protection granted by this Court vide order dated 06.12.2017 shall continue till the decision on the representation is taken by the respondent-bank.***

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

September 24, 2018
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Whether speaking/reasoned: Yes / No
Whether reportable : Yes / No

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