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

CWP No.29022 of 2018
Decided on : 06.12.2018

Harmeet Singh & anr. ...... Petitioners

Versus

State Bank of India and ors. ...... Respondents

**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. Rajesh Sethi, Advocate with
Mr. Arun Biriwal, Advocate
for the petitioners.

Mr. Gaurav Goel, Advocate
for the respondents.

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Manjari Nehru Kaul, J.

CM-17699-2018

Application is allowed and documents (Annexures P-21 to P-23) are taken on record subject to all just exceptions. Office to tag the same at appropriate place.

CWP No.29022 of 2018

The instant petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for setting aside the e-auction notice dated 02.11.2018 (Annexure P-20) and for directions to the respondent-bank to regularise the loan account of the petitioners.

2. The petitioners took a home loan of ₹ 11,00,000/- from the respondent-bank on the monthly installment of ₹ 10,594/- for a period of 240 months. But due to some reasons, petitioners could not pay the

installments in time and their account was classified as Non Performing Asset (in short 'NPA') on 24.02.2017. Thereafter, the bank issued a notice dated 06.05.2017 under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act') and asked the petitioners to make payment of ₹ 10,56,684/- as on 06.05.2017. The possession notice dated 24.08.2018 under Section 13(4) of the Act was issued to the petitioners. The petitioners also sent a legal notice dated 30.09.2018 (Annexure P-8) to the respondent-bank to which the bank gave its reply (Annexure P-18). The petitioners vide letter dated 26.10.2018 (annexure P-16) made a request along with a cheque amounting to ₹ 2 lakhs to the respondent-bank to regularize their loan account but it did not consider the same. However, the respondent-bank issued e-auction notice dated 02.11.2018 (Annexure P-20) to the petitioners. Hence, the present writ petition.

3. On 16.11.2018, notice of motion was issued in the following terms by this Court:

> *“Learned counsel for the petitioners states that the petitioners are prepared to clear the outstanding amount in installments.*
>
> *To show the bonafides of the petitioners, learned counsel for the petitioners has produced a cheque No.639194 dated 14.11.2018 of ₹2 lacs in Court today. A copy of the cheque has been taken on record and the original has been returned to the learned counsel for the petitioners to deposit the same with the respondent-bank within 4 days.*
>
> *Notice of motion for 05.12.2018.*
>
> *Notice re: stay.*
>
> *Process dasti only.”*

4. Learned counsel for the petitioners submitted that the petitioners are ready and willing to clear the outstanding dues or to regularize their account within a reasonable period in a time bound manner.

5. Learned counsel for the respondent-bank has submitted that in case a reasonable proposal is made by the petitioners, the respondent-Bank shall consider the same.

6. After hearing learned counsel for the parties, perusing the petition and without expressing any opinion on the merits of the case, the present writ petition is disposed of with the following directions:

1. The petitioners shall approach the respondent-bank within one month from today by filing a detailed and comprehensive representation for clearing the outstanding dues or to regularize the loan account.
2. Respondent-bank shall consider the representation submitted by the petitioners sympathetically in accordance with law, after affording an opportunity of hearing to the petitioners and pass a speaking order.
3. The decision on the representation shall be taken at the earliest by the respondent-bank but not later than two months from the receipt of such representation.
4. It is clarified that in case the petitioners fail to submit their representation within the specified time, the respondent-bank would be at liberty to proceed in accordance with law.

4. The status quo shall be maintained till a decision is taken by the respondent-bank on the representation submitted by the petitioners. However, it is clarified that the interim protection shall not be construed as

an expression of opinion on the merits of the case by this Court.

(MANJARI NEHRU KAUL)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

06.12.2018
sonia

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