IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.3154 of 2018
Date of Decision: March 26, 2018

Ganshayam Dass Sharma and another ......Petitioners

versus

Bank of Baroda and another .....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SHEKHER DHAWAN.

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Present: Mr.Banni Thomas, Advocate, for the petitioners.
Mr.C.S.Pasricha, Advocate, for respondent No.1.
Mr.Joginder Sharma, Advocate, for respondent No.2.

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Surya Kant, J. (Oral)

Written statement filed on behalf of respondent No.1 is taken on record.

The instant writ petition appears to have been filed in collusion with the borrower-respondent No.2, whose account has been declared as NPA by respondent No.1-bank and measures under Sections 13 & 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 have been taken against it. The petitioners claim that the Bank had given a consent letter dated 19.04.2016 to the borrower to sell a part of the mortgaged property measuring 3 bigha 3-10 biswa comprising khasra No.1474/819 so as to pay a sum of Rs.85.00 lacs plus interest. It was mentioned that after the said deposit, the outstanding loan would stand reduced to Rs.80.00 lacs.

The petitioners claim to have entered into an agreement to sell with respondent No.2-borrower on the basis of the aforesaid permission granted by the bank. It is averred that they initially paid Rs.11.00 lacs to the borrower and thereafter Rs.49.00 lacs have been now paid on 23.03.2018, namely, after filing of the instant writ petition.

The fact of the matter is that respondent No.2-borrower has not deposited even a single penny with the bank and has rather applied for restructuring of the loan account alongwith the drafts given by a third party. Since the permission granted by the bank was conditional and the petitioners have woken up almost after two years and are said to have paid a huge amount towards sale consideration without ascertaining the original title deed from the borrower, we are satisfied that the writ petition involves several disputed questions of facts which cannot be effectively adjudicated in the writ proceedings. The writ petition is accordingly dismissed relegating the petitioners to avail the alternative remedy as per law.

[SURYA KANT]
JUDGE

March 26, 2018
mohinder

[SHEKHER DHAWAN]
JUDGE

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