IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 4500 of 2018
Decided on : 15.10.2018

Randeep Kaur and another ...... Petitioners

Versus

Punjab National Bank and another ...... Respondents

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

Present : Mr.Nakul Sharma, Advocate
for the petitioners.

Mr.Vipul Dharmani, Advocate
for the respondents.

* * *

AVNEESH JHINGAN, J.

The present writ petition has been filed for directions to the respondents not to conduct auction in pursuance to sale notice dated 17.01.2018 (Annexure P-4).

2. Petitioners No.1 and 2 are running a school at village Ravi, Shahabad, Markanda by the name of Shri Guru Harkrishan Convent School. They are the borrowers of loan. Punjab National Bank, Shahabad Markanda (main) Branch, Kurukshetra, and Manager, Punjab National Bank, Branch Office Shahabad Markanda (main) have been arrayed as respondents No.1 and 2 respectively in the present writ petition.

3. The petitioners applied for a term loan of ₹60 lakhs and the said loan was sanctioned on 09.10.2012. Further, a loan of ₹25 lakhs was applied and was also sanctioned. The petitioners mortgaged the following valuable properties in order to secure the credit facility:-

Property measuring 7K-14M in the manner as under :

(I) Property measuring 4K-1M comprised in khewat No.176 Min Khatoni No.295 Min. Khasra No.619/(4-1), Kitta-1, owned by Smt. Randeep Kaur, vide Jamabandi for the year 2005-06 & mutation No.3896 & 3910, purchased vide Sale Deed No.1379 dated 12.11.2007 situated village Rawa HB No.239, Tehsil Rawa, Kurukshetra.

(II) Property measuring 3K-13M i.e. 2K-8M being 48/73 share owned by Smt. Randeep Kaur & 1K-5M being 25/73 share owned by Sh. Kartar Singh comprised in Khewat No.176 Min. Kathoni No.295 Min, Khasra No.619/2 (1-8), 621/2/2(2-5), Kittas-2 vide Jamabandi for the year 2005-06 & mutation no. 3947 & 3950 as per the registered sale deed No.1110/1, dated 18.09.2009 & vide registered Gift Deed No.1855/1 dated 15.12.09, situated village Rawa HB No.239, Tehsil Rawa, Kurukshetra.

Note : Smt. Randeep Kaur & Sh. Kartar Singh have already leased the land measuring 7K-14M detailed as above in favour of Shri Guru Harkrishan Educational & Charitable Society, H No.515 Ram Vihar, Ladwa Road, Shahabad Markanda through its president Smt. Randeep Kaur W/o Mr. Kartar Singh for a sum of Rs.20,000/- p.a. for a period of 99 years i.e. since 07.03.2010 to 06.03.2040 vide registered lease deed No.2753 dated 09.03.2010 & from 07.03.2040 to 06.03.2019 vide registered Lease Deed No.727 dated 11.06.2016.

Residential house constructed over a plot

> *measuring 8 Marlas-6 Sersai being 78/1224 share out of land measuring 6K-16M comprising in Khewat No.731/746, Khatoni No.775, rect No.31, Khasra No.18(6-16), Kitta-1 Jhambra Shahabad within the MC Limit, # 515, Rama Vihar Colony, Ladwa Road, Shahabad Markanda measuring East 33', West 33', North 71'-6" South 71'-6" which is bounded as under East : RASTA, West: Property of other, North : Property of other, South: Property of other, owned by Smt. Randeep Kaur W/o Kartar Singh vide registered Sale Deed No.1449/1 dated 08.12.1999 & Mutation No.11013.*

4. The petitioners defaulted in repayment of the loans and the accounts were classified as Non Performing Assets (NPA). The respondent-bank issued a notice dated 03.05.2017 under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'the Act'). Thereafter, a notice dated 07.07.2017 under Section 13(4) of the Act was issued. As per the notice, there were outstanding dues of ₹1,03,72,005 as on 20.04.2017. The respondent-bank moved an application under Section 14 of the Act and District Magistrate, Kurukshetra vide order dated 25.09.2017 allowed the application and directed that police assistance should be provided to take over the physical possession of the mortgaged properties. Tehsildar, Shahabad issued a notice dated 16.02.2018 to Station House officer (SHO), Shahabad regarding taking over the physical possession of the mortgaged property on 23.02.2018. Copy of the notice was also sent to the petitioners. The respondent-bank issued a sale notice dated 17.01.2018 fixing the e-auction of the mortgaged properties for 06.03.2018.

Aggrieved of the proceedings initiated under the Act, the present petition has been filed.

5. On 23.02.2018, learned counsel for the petitioners submitted that out of the outstanding amount of ₹1.05 crores, the petitioners have already deposited ₹23 lakhs and further produced a cheque of ₹10 lakhs to clear the overdue amount. Further submission was made that after the aforesaid payment, their account would stand regularised and the petitioners would not commit any default in repayment of future installments. Notice of motion was issued. Subject to petitioner's depositing ₹10 lakhs within two days, their dispossession from the residential house was stayed. During the pendency of the writ petition, petitioners deposit another sum of ₹2 lakhs. In a civil miscellaneous application moved by the petitioners, this Court on 02.05.2018 directed the parties to maintain status quo regarding taking over the physical possession of the school of the petitioners.

6. Heard learned counsel for the parties.

7. Learned counsel for the petitioners stated that the petitioners have made a proposal under One Time Settlement Scheme (OTS) on 12.10.2018. The petitioners have offered to settle the outstanding dues of ₹73.17 Lakhs and also deposited 10% amount i.e. ₹7,50,000/- as upfront fee. He restricted his prayer to the effect that the bank be directed to decide the proposal of OTS Scheme within a time bound manner.

8. Learned counsel for the respondent-bank stated that the bank has received the proposal for OTS and the upfront payment and same would be considered.

9. Without expressing any opinion on the merits of the case, the

writ petition is disposed of with a direction to the respondent-bank to consider the proposal of OTS submitted by the petitioners in a sympathetic manner in accordance with law. The decision on the OTS shall be taken by the bank at the earliest not later than 30.11.2018.

10. Interim protection granted by this Court vide order dated 23.02.2018 and 02.05.2018 shall continue till the decision is taken by the bank on the OTS proposal. It is, however, clarified that extension of interim orders shall not be construed as expression on merits of the case by this Court.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

October 15, 2018
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Whether speaking/reasoned: Yes

Whether reportable : Yes