HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-5365-2018
Date of Decision: March 06, 2018

Om Parkash Mahajan

.....Petitioner

Versus

The Authorised Officer, Bank of Baroda and others

......Respondents

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

1.	**To be referred to the Reporters or not?**	**Yes/No**
2.	**Whether the judgment should be reported in the Digest?**	**Yes/No.**
3.	**Whether Reporters of local papers may be allowed to see the judgment?**	**Yes/No**

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Present: Mr.Arvind Rajotia, Advocate
for the petitioner.

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SURYA KANT, J.

The petitioner is a guarantor for the loan availed by respondent Nos.3 and 4 from respondent No.2-Bank of Baroda. Two properties were mortgaged as security towards the loan account including one owned by the petitioner. The Bank has taken measures under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 to take physical possession of both the secured assets. While possession of one of the properties has since been taken by the Bank, the second property which is a residential House No.161 situated at Asoka Nagar, Near Bus Stand, Taraf Burda, H.B.No.168, Ludhiana, is still in physical possession of the petitioner. With a view to protect his possession over the said property, the instant writ petition has been filed seeking a direction that let the Bank firstly auction the property owned by the borrower and in case there is any deficiency in the recovery of loan amount, the petitioner is ready and willing to pay such deficient amount.

[2] In our considered view, the offer made by the petitioner requires sympathetic consideration by the Bank. The writ petition is, accordingly, disposed of with liberty to the petitioner to give an undertaking to the Bank to make good the deficiency within one week, if any, in the recovery of loan amount after the sale of mortgaged property owned by the borrower. On receipt of such undertaking, we have no reason to doubt that the Bank shall firstly make an effort to sell the mortgaged property owned by the borrower and the balance amount, if any, shall be then paid by the petitioner as per his undertaking. Needless to say that in the event of any attempt by the petitioner to wriggle out of the undertaking, the Bank shall always be at liberty to take physical possession of petitioner's house and sell the same to recover the balance loan amount.

(SURYA KANT)
JUDGE

March 06, 2018 **(SHEKHER DHAWAN)**
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1.	**Whether speaking/reasoned ?**	**Yes/No**
2.	**Whether reportable ?**	**Yes/No**