IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-7895-2018
Date of Decision: May 03, 2018

Smt.Ranjita Kumari .....Petitioner

Versus

The Presiding Officer, DRT, Chandigarh 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.S.P.Arora and Mr.Himanshu Arora, Advocates for the petitioner.

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SURYA KANT, J.

The core issue that requires determination in this case is whether or not House No.2989/2, measuring 75.5 sq.yards, Laxman Vihar, Phase-I, Gurugram, statedly owned by the petitioner is the mortgaged property or/and if not, whether respondent No.3-Bank is entitled to auction the same for the recovery of loan amount against one Anuradha and Deepak Kumar?

[2] The petitioner's precise case is that the above-mentioned property is owned by her and it was never mortgaged with Union Bank of India. The petitioner's further case is that her house is, in fact, mortgaged with Allahabad Bank and she is paying installments regularly and her account has never been classified as 'NPA'. However, Union Bank of India has taken over physical possession of the petitioner's house against the loan account of one Anuradha and Deepak purportedly on the ground that the subject house is mortgaged as a security for their loan account.

[3] The entire controversy is sub judice before the DRT where the petitioner has filed a petition. As no interim stay was granted by the DRT, the petitioner has approached this Court, for her house was meanwhile

sought to be auctioned.

[4] Notice of motion was issued and as per the Office report, service is complete. However, no-one appears on behalf of respondent No.3-Bank. On our asking, Mr.Shailender Kashyap, Advocate, who is present in Court and is on the panel of the Bank, accepts notice. Let a copy of the paper-book be handed over to him during course of the day.

[5] As the facts would speak for themselves, the DRT is yet to determine on the basis of evidence on record whether the house statedly owned by the petitioner is mortgaged with Union Bank of India as a security for the loan account of any person other than the petitioner. Till the said issue is decided, it appears to us that the house cannot be auctioned as it would cause serious prejudice to the petitioner.

[6] The writ petition is, thus, disposed of with a direction to respondent No.3-Bank not to create any third party rights in the above-mentioned house allegedly belonging to the petitioner till her petition is decided by the DRT. For the expeditious disposal of the petition, the DRT is directed to decide the same within a period of four months from the date of receipt of a certified copy of this order.

(SURYA KANT)
JUDGE

May 03, 2018 **(SHEKHER DHAWAN)**
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1. **Whether speaking/reasoned ?** **Yes/No**
2. **Whether reportable ?** **Yes/No**