IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 8304 of 2018
Decided on : 25.10.2018

Rajni Dhingra

...... Petitioner

Versus

Dewan Housing Finance Corporation Limited and another

...... Respondents

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

Present : Mr. Varun Sharma, Advocate
for the petitioner.

Mr.R.M.Suri, Advocate
for the respondents.

* * *

AVNEESH JHINGAN, J.

The present writ petition has been filed seeking quashing of notice dated 09.02.2018 (Annexure P-8) issued under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the Act').

2. The petitioner is a co-borrower of loan. Dewan Housing Finance Corporation Limited, Mumbai and Branch Manager, Dewan Housing Finance Corporation Limited, Jalandhar, have been arrayed as respondents No.1 and 2 in the present writ petition.

3. The petitioner and her husband availed a housing loan from State Bank of India. Thereafter, two loans were availed from respondent No.2 i.e. of ₹3,39,648/- and ₹14,42,679/-. The loans were disbursed on 05.08.2016 and 20.08.2016 respectively. One of the loan was utilised for repaying the loan availed from State Bank of India. In order to secure the

credit facility, the following property was mortgaged:-

> "*Land measuring 4 Marlas which is 4/290 share out of 14 Kanal 10 Marla comprising Khewat Khata No.91/123, Khasra No.82//17/2-9, 18/7-15, 23/2/2/2-8, 24/1/1/1-7, 24/2/2/0-13, Kita 5, Vijay Nagar, Kapurthala, Punjab.*"

4. The husband of the petitioner left her and went missing. There was default in repayment of loan. Respondent No.2 issued notice dated 23.11.2017 under Section 13(2) of the Act. As per notice, there were outstanding dues of ₹3,80,942/-. Thereafter, notice dated 09.02.2018 was issued under Section 13(4) of the Act.

5. Aggrieved of the recovery proceedings, the present writ petition has been filed.

6. Vide order dated 04.04.2018, notice of motion was issued and subject to the petitioner's depositing a sum of ₹1 lakh within two weeks, her dispossession from the residential house was stayed.

7. Learned counsel for the petitioner contended that a sum of ₹1 lakh in compliance of order dated 04.04.2018 has been deposited and the petitioner is ready and willing to clear the outstanding dues within a reasonable period.

8. Learned counsel for the respondents argued that no such proposal has been made by the petitioner till date and in case the same is made, the respondent would consider it.

9. Without expressing any opinion on the merits of the case and in view of the facts and circumstances of the case, the writ petition is disposed of with the following directions:-

1. The petitioner shall approach respondent No.2 within one

month from today with a proposal for settling outstanding dues. The petitioner shall deposit a sum of ₹1 lakh alongwith the proposal.

2. Respondent No.2 shall consider the proposal submitted by the petitioner sympathetically, in accordance with law, after affording an opportunity of hearing to the petitioner and by passing a speaking order.
3. The respondent-bank shall decide the representation at the earliest but not later than one month from the receipt of the proposal. It is clarified that in case of failure of the petitioner to submit the proposal or to deposit a sum of ₹1 lakh, the respondent No.2 would be at liberty to proceed in accordance with law.
4. The interim protection granted vide order dated 04.04.2018 regarding shall continue till the decision is taken by respondent No.2 on the proposal submitted by the petitioner. However, it is clarified that the extension of the interim protection shall not be construed as an expression on the merits of the case by this Court.

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

October 25, 2018
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Whether speaking/reasoned: Yes
Whether reportable : Yes