IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.8329 of 2018
Decided on 25.09.2018

Vikas Arora & another

Petitioners

Versus

Authorized Officer, Andhra Bank, DDA, Vasant Place Market, Sector 6, R.K. Puram, New Delhi and others

Respondents

* * *

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

Present : Mr. C.S. Pasricha, Advocate,
Mr. Pragya Malhotra, Advocate and
Mr. Satyaveer Singh, Advocate
for the petitioner.

Mr. Anandeshwar Gautam, Advocate for
Mr. Gaurav Goel, Advocate
for respondents No.1 and 2.

Mr. Vikram Sethi, Advocate for
Mr. Gangneshwar Walia, Advocate
for respondent No.6.

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AVNEESH JHINGAN, J.

The present writ petition has been filed seeking quashing of order dated 06.02.2018 (Annexure P-12) passed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act') by the District Magistrate, Faridabad .

2. Petitioners are the investors in M/s Sports Fit World Pvt. Ltd. situated at 1-2, LGF, Vasant Square Mall, Vasant Kunj, New Delhi (hereinafter referred to as the 'Company'). The Company availed

various credit facilities from Andhra Bank, R.K. Puram Branch, New Delhi. In order to secure the loan, the petitioners mortgaged their property. The company defaulted in repayment of loan. The respondent-bank issued notice under Section 13(2) of the Act on 02.01.2017 and also a notice under Section 13(4) of the Act. An application dated 06.02.2018 was moved before the District Magistrate, Faridabad under Section 14 of the Act. Being aggrieved of recovery proceedings, the present petition has been filed.

3. The petitioners have also challenged the proceedings by filing Securitisation Application before the Debts Recovery Tribunal. Further, arbitration proceedings were also going on between the petitioners and respondent-bank.

4. On 04.04.2018, notice of motion was issued to the respondent-bank for a limited purpose to explain as to why the One Time Settlement (OTS) offer made by the petitioner in confirmity with the arbitration order dated 27.02.2018 is not acceptable to it. *Status quo* regarding physical possession of the residential house was ordered to be maintained.

5. The respondent No.1 and 2 have filed the reply stating that award passed by Arbitrator was not binding on the respondent-bank as the bank was never a party in the arbitration proceedings. Alongwith the reply, a new OTS scheme has been annexed as Annexure R-4 stating that the petitioners can apply under the current scheme.

6. Learned counsel for the petitioners contended that in order to save the mortgaged residential house, the petitioners are willing to

settle the matter with the respondent-bank. He stated that the petitioners would apply for OTS under new scheme.

7. Without expressing any opnion on the merits of the case, the writ petition is disposed of with following directions:

*(i) **Petitioners shall, within 15 days from today, would apply for OTS in consonance with the terms and conditions of new OTS policy.***

*(ii) **On receipt of the proposal, the respondent-bank shall consider the same sympathetically but in accordance with law.***

*(iii) **The decision shall be taken at the earliest, but not later than two months of receipt of the proposal.***

*(iv) **The interim protection granted vide order dated 04.04.2018 shall continue till a decision on OTS proposal is taken by respondent-bank. It is, however, clarified that grant of interim protection will not be construed as any expression on the merits of the case by this Court.***

(AJAY KUMAR MITTAL)
JUDGE

(AVNEESH JHINGAN)
JUDGE

September 25, 2018
pankaj baweja

Whether speaking/reasoned: Yes / No

Whether reportable : Yes / No