IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-2357-2019
Decided on: 22.02.2019

Ramesh Kumar Gera and others ..... Petitioners

Versus

Punjab National Bank and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ajay Jain, Advocate &
Mr. Vivek Goyal, Advocate
for the petitioners.

Mr. Rajan Chawla, Advocate
for respondent No.1-bank.

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MANJARI NEHRU KAUL, J.

The instant writ petition has been preferred under Article 226/227 of the Constitution of India, inter alia for issuance of a writ in the nature of certiorari for quashing the notices dated 20.11.2017 and 25.01.2018 (Annexures P-2 and P-3 colly.) under Sections 13(2) and 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'the Act') as well as possession notice dated 09.11.2018 (Annexure P-6).

2. The son of petitioner No.1, namely, Lalit Gera availed a housing loan from respondent No.1-bank for an amount of ₹20 lakhs (Term loan) vide sanction letter dated 02.02.2017. The said loan was to be repaid in 180 installments w.e.f. May, 2017 till the year 2032 @ ₹20,095/- per month against collateral security of Residential House No.266/10, measuring 300 Sq. Yards, situated at New Ashoka Colony, near Guru Tegh Bahadur Colony, Kaithal, Haryana – 136027.

3. The son of petitioner No.1 took another overdraft facility dated 07.02.2017 (Annexure P-1) from respondent No.1-bank, qua which the Equal Monthly Installments (EMI) was to be ₹20,730/- per month. The son of petitioner No.1, however, was unable to maintain financial discipline, resultantly, the accounts were classified as Non-Performing Asset (NPA), subsequent to which, proceedings under the SARFAESI Act were initiated by respondent No.1-bank culminating in issuance of possession notice under Section 13(4) of the Act dated 09.11.2018 (Annexure P-6) for taking symbolic possession of the mortgaged property. Feeling aggrieved, the present writ petition has been filed.

4. Learned counsel for the petitioners has submitted that the petitioners are ready and willing to clear the outstanding dues or to regularize their account within a reasonable period in a time bound manner.

5. Learned counsel for respondent No.1-bank has submitted that in case a reasonable proposal is made by the petitioners, the respondent No.1-bank shall consider the same.

6. After hearing learned counsel for the parties, perusing the petition and without expressing any opinion on the merits of the case, the present writ petition is disposed of with the following directions:

1. The petitioners shall approach the respondent No.1-bank within 15 days month from today by filing a detailed and comprehensive representation for clearing the outstanding dues or to regularize the loan account.
2. Respondent No.1-bank shall consider the representation submitted by the petitioners sympathetically in

accordance with law, after affording an opportunity of hearing to the petitioners and pass a speaking order.

3. The decision on the representation shall be taken at the earliest by respondent No.1-bank but not later than 15 days from the receipt of such representation.
4. It is clarified that in case the petitioners fail to submit their representation within the specified time, respondent No.1-bank would be at liberty to proceed in accordance with law.

7. Meanwhile, the interim protection granted by this Court vide order dated 29.01.2019 shall be maintained till a decision is taken by respondent No.1-Bank on the representation submitted by the petitioners. However, it is clarified that the interim protection shall not be construed as an expression of opinion on the merits of the case by this Court.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

22.02.2019
Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No