IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.3939 of 2019
Decided on : 15.02.2019

Subhash Chander Sikka & another ...... Petitioners

Versus

State Bank of India and others ...... Respondents

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

Present : Mr. Mahir Sood, Advocate
for the petitioners.

Mr. Roopak Bansal, Advocate
for respondent No.1.

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Manjari Nehru Kaul, J.

The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of writ in the nature of Certiorari for quashing the letter dated 05.02.2019 (Annexure P-2), auction notice dated 31.01.2019 (Annexure P-3) and the order dated 22.11.2018 (Annexure P-4) passed by District Magistrate, Rohtak under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act').

2. Brief facts of the case are that the petitioners were sanctioned home loan of ₹ 10 lakhs on 21.10.2015 by the respondent-bank, which was to be repaid in monthly installments of ₹10,535/-. The petitioners mortgaged the following property to secure the credit facility:

> *"Residential house land measuring 111.25 sq. yards bearing plot No.282-283/32-P, (Old No.343-A/20) situated at Shivaji Colony, Rohtak in the name of*

Sh. Subhash Chander Sikka vide tranfer Deed No.8278 dated 12.10.2015."

3. The respondent-bank while declaring their loan account as Non-Performing Asset (NPA) on 01.01.2018 issued demand notice dated 22.06.2018 (Annexure P-1) under Section 13(2) of the Act asking the petitioners to make payment of ₹ 10,36,894/- as was due on 21.06.2018. According to the petitioners, the said notice came to their knowledge only in the last week of December, 2018 as they were not residing on the address where notice was served. Thereafter, on 05.02.2019 a notice was affixed by the concerned Tehsildar wherein possession of the mortgaged property was scheduled to be taken on 13.02.2019. However, vide auction notice dated 31.01.2019 (Annexure P-3) the auction of the mortgaged property was fixed for 07.03.2019. District Magistrate, Rohtak – respondent No.3 vide order dated 22.11.2018 (Annexure P-4) also directed the concerned Tehsildar to take the physical possession of the mortgaged property.

4. According to the petitioners, they deposited an amount of ₹ 2.97 lakhs on 31.12.2018 with the respondent-bank with a request for regularisation of the loan account but the same was declined. In fact, the petitioners had deposited an amount of ₹ 4 lakhs after their loan account was declared as NPA. Hence, the present writ petition has been filed.

5. Learned counsel for the petitioners has drawn our attention towards statement of loan account (Annexure P-7), which shows that the outstanding loan stands at ₹ 7,44,956/- as on 01.01.2019. He further submitted that the petitioners are ready and willing to clear the outstanding dues or to regularize their account within a reasonable period.

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-bank within 15 days from today by filing a detailed and comprehensive representation for clearing the outstanding dues or to regularize the loan account.
2. Respondent-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 the respondent-bank but not later than one month from the receipt of such representation.
4. It is clarified that in case the petitioners fail to submit their representation within the specified time, the respondent-bank would be at liberty to proceed in accordance with law.

7. In the meantime, the interim protection granted by this Court vide order dated 13.02.2019 shall be maintained till a decision is taken by the respondent-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

15.02.2019
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No