

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-6146-2019

Decided on: 07.03.2019

M/s. Radhika Power Ventures Pvt. Ltd.

.... Petitioner

Versus

Bank of Maharashtra and another

.... Respondents

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

Present: Mr. Manoj Kumar Sood, Advocate
for the petitioner.

AJAY KUMAR MITTAL, J (ORAL)

Prayer in this writ petition under Articles 226/227 of the Constitution of India, is inter alia for issuance of a writ in the nature of certiorari for quashing the advertisement dated 06.02.2019 (Annexure P-8), whereby respondent issued the advertisement to auction the only residential house of the petitioner and for issuance of a writ in the nature of mandamus directing the respondent to issue final letter of OTS so that petitioner could deposit the balance amount in stipulated time given in the final letter.

2. It could not be disputed that the petitioner has approached the Debts Recovery Tribunal-II, Chandigarh (in short 'the Tribunal') for the said relief, whereby the Tribunal passed the final order on 22.02.2019 (Annexure P-9). The relevant part of the order reads as under:-

“As per letter dated 02.11.2018 and as per OTS terms and conditions applicant was required to deposit the whole OTS amount by 02.01.2019 but he has deposited only 10 per cent of the OTS amount. Therefore, it cannot be said that applicant has complied with the terms and conditions of OTS. Therefore, there is no question to give any direction to the bank to restore the physical possession since applicant has not deposited the full OTS amount by 02.01.2019. Therefore, bank has not sanctioned the OTS and at present as per statement given by the counsel for bank there is no settlement between the parties and bank is entitled to recover its outstanding dues from the mortgaged property. Therefore, there is no ground to allow this IA and there is no reason to give any direction to the respondent bank to restore the physical possession to the applicant and accordingly this IA is dismissed.”

3. Since the petitioner had failed to deposit the amount before 02.01.2019 as noticed in the order dated 22.02.2019 passed by the Tribunal, we do not find any ground to intervene at this stage.

4. Accordingly, the present writ petition is dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

07.03.2019
Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No