

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

CWP No. 16805 of 2019

Date of Decision: 03.07.2019

BHUPENDER KUMAR

..... Petitioner

V/s.

STANDARD CHARTERED BANK AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present: Mr. Aalok Jagga, Advocate,
for the petitioner.

Mr. Rajeev Sagar, Advocate,
for respondent No. 1.

Mr. Anant Bir Singh Sidhu, Advocate,
for respondent No. 2.

RAKESH KUMAR JAIN, J. (Oral)

The petitioner is the borrower who has already filed a Securitization Application (for short “SA”) before the Debt Recovery Tribunal, Chandigarh (DRT) to challenge the sale notice issued under Rule 8 of the Security Interest (Enforcement) Rules, 2002 (for short “the Rules”).

Learned counsel for the petitioner has submitted that the petitioner had to approach this Court because his application filed alongwith the SA for seeking interim relief/stay was not decided by the DRT because the Presiding Officer was not available.

Be that as it may, on 17.06.2019, this Court had passed the following order: -

“The petitioner has challenged the sale notice dated 14.05.2019 whereby his residential house was put to auction.

Petitioner who appears in person contends that although the sale notice bears date of 14.05.2019 but it was posted only

*on 17.05.2019 and was received by the petitioner on 21.05.2019. The sale of the house was conducted on 30.05.2019 and thus the notice to the petitioner was less than 15 days which is in contravention of Rule 8 (6) and 9 (1) of the Security Interest (Enforcement) Rules, 2002. He has also placed reliance upon the judgment of the Supreme Court in the case of **Mathew Varghese versus M. Amritha Kumar, AIR 2015 (SC) 50**. He also contends that he had obtained home loan for a sum of ₹14,85,800/- in 2004 and had already paid a sum of ₹17,50,000/- upto 2014 and had later paid a sum of ₹20 lacs on 30.07.2018. The petitioner had furnished a cheque on 29.05.2019 for an amount of ₹12,45,000/- towards the outstanding amount which has not been accepted by the bank. He does not own any other residential or immovable property and the auction in contravention of the afore-noted provisions had caused him undue hardship. The petitioner apprehends that in pursuance to the sale, respondent No.3 might carry out demolition which would cause him irreparable harm.*

Issue notice to the respondents, returnable on 03.07.2019.

Respondents are directed to maintain status quo till the next date of hearing.”

Pursuant thereto respondents have put in appearance today and brought to our notice that a similar petition has been filed before the DRT. Learned counsel for respondent No. 1 has submitted that the petitioner may be relegated to its remedy, already availed by him, before the DRT and may also allow him to press his application for stay.

Learned counsel for the petitioner has not raised any objection in this regard but has only prayed that till his application for stay is decided by the DRT, the order of stay granted by this Court vide order dated 17.06.2019 may be allowed to continue.

Learned counsel for the respondents has submitted that since, the next date of hearing before the Tribunal is 23.07.2019, therefore, Presiding Officer, DRT, seized of the SA filed by the petitioner, may be directed to decide atleast the application for stay on the date already fixed i.e. 23.07.2019.

Learned counsel for respondents has not raised any objection to the prayer made by the petitioner that the stay granted by this Court on 17.06.2019 may be allowed to continue till the application is decided one way or the other by the Tribunal.

With these observations, the present petition is hereby disposed of with a direction to the Presiding Officer, Debt Recovery Tribunal, Chandigarh, seized of the SA filed by the petitioner, to atleast decide the application for stay on the date already fixed i.e. 23.07.2019. Till then, order of stay dated 17.06.2019 passed by this Court in this petition shall continue. Both the respondents No. 1 and 2, in order to expedite the disposal of the application of stay filed by the petitioner, shall file their respective replies a week before 23.07.2019 so that the petitioner may come prepared on the application for stay.

[RAKESH KUMAR JAIN]
JUDGE

July 3, 2019

Ess Kay

[ARUN KUMAR TYAGI]
JUDGE

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No