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

CWP No.13959 of 2017
Decided on : 10.01.2019

Mamta Sharma ...... Petitioner

Versus

State Bank of Patiala now State Bank of India ...... Respondent

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

Present : Ms. Pooja Arora, Advocate for
Mr. Amit Aggarwal, Advocate
for the petitioner.

Mr. Pardeep Sharma, Advocate for
Mr. Gaurav Goel, Advocate
for the respondent.

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Manjari Nehru Kaul, J.

The instant petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing the impugned notice dated 24.04.2015 (Annexure P-1) whereby residential house owned by the husband of the petitioner (borrower) has been put in auction.

2. The petitioner was the guarantor being the wedded wife of late Sh. Mohan Lal Bhardwaj, who had obtained housing loan of ₹ 13,50,000/- from the respondent-bank by executing a loan agreement in respect of his residential house i.e House No.886, Prasant Vihar, VPO Raipur Rani, District Panchkula situated in Khewat No.2 min Khatauni No.28 min Khasra No.56/21 (8-0) measuring 130 sq. yards Hadbast No.6 Sub Tehsil Raipur Rani District Panchkula.

3. According to the petitioner, due to the demise of her husband

i.e. borrower, she could not pay the installments in time and the loan account was classified as Non Performing Asset (in short 'NPA'). Thereafter, the bank issued a notice dated 24.04.2015 under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred as 'the Act') and asked the petitioner to make payment of ₹ 15,07,745/- as on 23.04.2015. The respondent-bank issued possession notice dated 12.05.2016 under Section 13(4) of the Act whereby symbolic possession of the mortgaged property was taken. On 23.05.2017 (Annexure P-4), the respondent-bank issued a public notice for e-auction of the mortgaged property. Feeling aggrieved, the petitioner filed the present writ petition.

3. Learned counsel for the petitioner submitted that the petitioner is ready and willing to clear the outstanding dues or to regularize the account within a reasonable period.

4. After hearing learned counsel for the petitioner, 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 petitioner shall approach the respondent-bank within one month from today by filing a detailed and comprehensive representation for clearing the outstanding dues or to regularize the loan account.
2. The petitioner shall deposit a draft amounting to ₹ 3 lakhs along with the representation.
3. Respondent-bank shall consider the representation submitted by the petitioner sympathetically in accordance with law, after affording an opportunity of hearing to the petitioner and

pass a speaking order.

4. The decision on the representation shall be taken at the earliest by the respondent-bank but not later than two months from the receipt of such representation.
5. It is clarified that in case the petitioner fails either to submit her representation within the specified time or fails to deposit a draft of ₹ 3 lakhs, the respondent-bank would be at liberty to proceed in accordance with law.

5. The interim protection granted by this court vide order dated 03.04.2018 shall be maintained till a decision is taken by the respondent-bank on the representation submitted by the petitioner. 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

10.01.2019
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No