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

CWP No.1639 of 2018
Decided on : 04.04.2019

Seema Bhalla ...... Petitioner

Versus

State Bank of India and ors. ...... Respondents

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

Present : Mr. Deepak Goyal, Advocate
for the petitioner.

Mr. Umang Khosla, Advocate
for respondent No.1.

Ms. Seerat Sharma, Advocate for
Mr. Nitin Grover, Advocate
for respondents No.2 to 4 along with
Mr. Bhupinder Kumar, Chief Manager, ARCIL.

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Manjari Nehru Kaul, J.

Prayer in the instant writ petition filed under Articles 226/227 of the Constitution of India is for issuance of writ in the nature of Certiorari for quashing the impugned notices dated 04.11.2015 and 30.12.2015 (Annexures P-5 and P-6) respectively issued under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act') and order dated 10.05.2017 (Annexure P-8) by respondent No.2.

2. The case in brief is that the petitioner had availed a housing loan of ₹ 7.78 lakhs from respondent No.1 -Bank in the year 2006 for construction of a house against collateral security of property measuring 92 sq. yards comprised in khatta No.327/359, khasra No.699 as per

jamabandi for the year 2002-03 situated at Threekay (locality known as Geeta Vihar), Teh. And District Ludhiana. Thereafter, the petitioner availed another loan amounting to ₹ 2 lakhs in the year 2006-07. According to the petitioner, she could not maintain the financial discipline due to the poor health of her husband as a consequence of which the respondent-bank initiated proceedings under the Act. Addl. District Magistrate, Ludhiana vide order dated 10.05.2017 directed the Sub Divisional Magistrate, Ludhiana to take possession of the secured asset. Feeling aggrieved, the petitioner approached this Court by filing the present petition.

3. On 25.01.2018, this Court issued notice of motion in the following terms:

> *"Notice of motion for 1.5.2018.*
>
> *Learned counsel for the petitioner states that petitioner is willing to settle the accounts with the respondents and although the demand raised by the respondents is exorbitant, she will still deposit Rs.7 lacs without prejudice to her rights.*
>
> *In view of above, if an amount of Rs.3,50,000/- is deposited within a period of six weeks from today and another sum of Rs.3,50,000/- within a period of six weeks thereafter, the petitioner shall not be dispossessed."*

4. Learned counsel for the petitioner submitted that out of total amount of ₹ 9 lakhs, the petitioner in compliance of order dated 25.01.2018 passed by this Court, had deposited an amount of ₹ 7 lakhs in the fixed deposit with the State Bank of India, High Court Branch, Chandigarh on which interest would have also accrued. It was urged that the bank has calculated the outstanding amount by charging interest @ 12% whereas the

loan was advanced at 7.5% per annum. According to the petitioner, in so far as the remaining amount of ₹ 2 lakhs is concerned, the only recoverable amount would be after reducing the amount of interest accrued on ₹ 7 lakhs submitted as FDR from ₹ 2 lakhs and calculations made by charging interest @ 7.5% per annum instead of 12% per annum. The petitioner claimed that due to the condition of her husband, which is precarious, who is afflicted with life threatening ailment, sympathetic view may be taken due to the fact that she is a housewife having no other source of livelihood coupled with the fact that all her financial sources have been drained on the medical treatment of her ailing husband.

5. After hearing learned counsel for the parties, perusing the paper book and without expressing any opinion on the merit of the case, the present petition is disposed of with a direction to respondents No.2 to 4 to take a sympathetic and compassionate view of the matter regarding the balance amount, which may not be very substantial. As a consequence, in the light of the facts and circumstances of this case, the title deed of the mortgaged property shall be released to the petitioner. It is however, clarified that this decision is based on peculiar facts of the case and on sympathetic grounds of the petitioner as narrated to do substantial justice and it shall not be treated as a precedent.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

04.04.2019
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No