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

CWP No.18765 of 2017
Decided on : 14.02.2019

Hema Gupta & anr. ...... Petitioners

Versus

Punjab National Bank & anr. ...... Respondents

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

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

Ms. Seerat Sharma, Advocate for
Mr. Nitin Grover, Advocate
for respondent No.1.

Ms. Mamta Singla Talwar, DAG, Haryana.

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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 impugned orders dated 06.06.2017 and 29.07.2017 (Annexures P-3 and P-4) respectively with further direction to the respondents for restoring the possession of the petitioners.

2. For adjudication of the case in hand, it would be relevant to notice the sequence of events leading to filing of the present petition, which are as follows:

The petitioners had availed a housing loan amounting to ₹1.15 crores from the respondent-bank on 17.11.2015, which was to be repaid in

180 monthly installments of ₹ 1,23,229/-. The said loan was availed by mortgaging the following property:

> *"All that part and parcel of property No.PPD-014, First Floor, having super area 156.991 sq. mtrs. (i.e. 1690 sq. fts.) along parking space Nos.PD-1066 & PD-1066-A in the residential complex known as "DLF PARK PLACE", situated at DLF City Phase-V, Gurgaon (Haryana)."*

3. According to the petitioners, due to severe losses in the business and some personal problems, they became irregular in making the payments of monthly installments. They paid ₹ 20,90,316/- towards loan account till 16.08.2017 and cleared all the arrears. Thereafter again, there was default in making the payment of installment. On 29.07.2017, respondent-bank took the possession of the mortgaged house without following the due process of law. On inquiry, the petitioners were informed about the proceedings initiated under Securitisation and Reconstruction of Financial Assets and of Security Interest Act, 2002 (for brevity 'the Act') by the respondent-bank. The petitioners filed a representation before Deputy Commissioner, Gurugram, which was further referred to the respondent-bank, who did not take any action. Feeling aggrieved, the petitioners approached this Court by filing present petition.

4. Vide order dated 26.09.2017, interim protection was granted to the petitioners subject to the condition that they would deposit ₹ 5 lakhs within a period of one week.

5. Learned counsel for the petitioners submitted that the petitioners are ready and willing to clear the outstanding dues or to

regularize their accounts within a reasonable period.

6. Learned counsel for the respondent-bank submitted that in case a reasonable proposal is made by the petitioners, the respondent-Bank shall consider the same.

7. 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 their loan account.
2. The petitioners shall deposit a draft amounting to ₹ 2 lakhs along with the representation.
3. 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.
4. The decision on the representation shall be taken at the earliest by the respondent-bank but not later than six weeks from the receipt of such representation.
5. It is clarified that in case the petitioners fail to submit their representation or fail to deposit the draft of ₹ 2 lakhs within the specified time, the respondent-bank would be at liberty to proceed in accordance with law.

8. Meanwhile, the interim protection granted by this Court vide

order dated 26.09.2017 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

14.02.2019
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No