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

CWP No.18521 of 2018
Decided on : 13.02.2019

Bhupender Kumar ...... Petitioner

Versus

Authorised Officer, Standard Chartered Bank ...... Respondent

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

Present : Mr. Vikas Chatrath, Advocate
for the petitioner.

Mr. A.B.S.Sidhu, Advocate
for the respondent.

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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 demand notice dated 31.07.2014 (Annexure P-9) along with the possession notice dated 22.10.2014 (Annexures P-10 & P-11) issued under Sections 13(2) and 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'the Act') by the respondent-bank and subsequent proceedings arising therefrom.

2. Petitioner had availed a home loan in the form of Term Loan amounting to ₹ 15.50 lakhs in March, 2004 for the purchase of house. The said loan was to be repaid in monthly installments of ₹ 11,744/- in 240 months. The said loan was availed by mortgaging the following property:

"House No.C-149, 2nd Floor, Ashoka Enclave, Extn. No.2, Sector 37, Faridabad forming the part of rect. No.5 killa No.1 min and rect. No.6, killa No.5 min of village Palla, Tehsil and District Faridabad measuring 294 sq. yards."

3. According to the petitioner, he had been regularly paying the monthly installments till April, 2014. But thereafter due to his family circumstances and financial crunch, he could not maintain the financial discipline and consequently his loan account was classified as Non-Performing Asset on 18.07.2014. The respondent-bank issued notice dated 31.07.2014 (Annexure P-9) under Section 13(2) of the Act asking the petitioner to make payment of ₹ 12,89,346/- as was due on 31.07.2014. Thereafter, respondent-bank issued possession notice dated 22.10.2014 (Annexures P-10 and P-11) under Section 13(4) of the Act to the petitioner. The respondent-bank initiated the action under Section 14 of the Act by moving an application before District Magistrate, Faridabad for taking possession of the mortgaged property. Vide order dated 27.09.2017 District Magistrate, Faridabad appointed the concerned Tehsildar to get the physical possession of the mortgaged property. Thereafter, the petitioner feeling aggrieved from the steps taken by the respondent-bank approached the Debts Recovery Tribunal-II, Chandigarh (for brevity 'the Tribunal') by filing SA No.27/18. During the pendency of the said SA, the respondent-bank issued the sale notice dated 28.03.2018 (Annexure P-18) regarding sale of mortgaged property. The petitioner filed an application bearing IA No.588 of 2018 before the Tribunal for staying the sale proceedings initiated by the respondent-bank and also filed an application before Debt Recovery

Appellate Tribunal, Delhi (in short 'Appellate Tribunal') for transferring the petition. Vide order dated 20.04.2018 (Annexure P-20) Appellate Tribunal disposed of the application with liberty to the petitioner to approach Debts Recovery Tribunal-I, Chandigarh. Vide order dated 20.07.2018 (Annexure P-27) the Tribunal dismissed the SA filed by the petitioner. Feeling aggrieved, the present writ petition has been filed.

4. Vide order dated 27.07.2018, notice of motion was issued in the following terms:

> *"It has, inter alia, been argued that only a sum of ₹ 28 lakh remains to be paid pertaining to the mortgaged property and that the property is being sold today.*
>
> *The petitioner has expressed his intention to repay the balance amount which is due to the respondent-Bank.*
>
> *Notice of motion to the respondent for 20.08.2018.*
>
> *Process dasti as well.*
>
> *The sale will not be confirmed in case the petitioner deposits a sum of ₹ 20 lakh with the respondent-Bank by way of any authorized/permissible mode by 30.07.2018.*
>
> *It is made clear that in case the amount is not paid, the writ petition will be dismissed with costs of ₹ 2 lakh.*
>
> *Copy of the order be given dasti to the counsel for the petitioner under the signatures of Bench Secretary."*

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

6. 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 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 to submit his representation or fails to deposit the draft of ₹ 3 lakhs within the specified time, the respondent-bank would be at liberty to proceed in accordance with law.

7. Meanwhile, the interim protection granted by this Court vide order dated 27.07.2018 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

13.02.2019
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No