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

CWP No.24115 of 2018
Decided on : 16.01.2019

Urmila ...... Petitioner

Versus

Andhra Bank and anr. ...... Respondents

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

Present : Mr. M.K.Sharma, Advocate
for the petitioner.

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

****

Manjari Nehru Kaul, J.

1. 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 25.09.2018 (Annexure P-10) vide which the residential house of the petitioner has been put on e-auction with further prayer for direction to respondent to decide the representation dated 12.09.2018 (Annexure P-9).

2. The son of the petitioner namely Dalip Aggarwal (borrower) took a loan of ₹ 7 lakhs from the respondent -Bank in the year 2014 by executing the loan agreement in respect of House No.1298 (old plot No.22-B) measuring 50 sq. yards forming part of khasra No.31/11 situated at Ward No.10 Firoz Nagar Block-A, Dabua Colony, NIT, Faridabad owned by him. He also took another loan amounting to ₹ 6 lakhs in the year 2015.

3. According to the petitioner, Dalip Aggarwal (borrower) expired on 09.11.2016 due to illness. Prior to his death, petitioner had lost her husband and another son as well. After these three deaths, there was no other male member in the family as a result of which she could not pay any installments and the loan accounts were thus, classified as Non Performing Asset (in short 'NPA') on 12.07.2016. Thereafter, the bank issued a notice dated 02.08.2016 under Section 13(2) of the Act and asked the petitioner to make payment of ₹ 12,08,003/- as on 02.08.2016. The respondent-bank issued possession notice dated 21.11.2017 under Section 13(4) of the Act whereby symbolic possession of the mortgaged property was taken. After following the due procedure, the bank took the physical possession of the residential house on 25.07.2018 and put the mortgaged property under e-auction on 25.09.2018. Feeling aggrieved, the petitioner filed the present writ petition.

4. Learned counsel for the petitioner prayed that the petitioner be shown leniency and latitude in view of her unfortunate family circumstances. He further submitted that she was ready and willing to clear the outstanding dues or to regularize the accounts within a reasonable period.

5. 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 accounts.

2. 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.
3. 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.
4. It is clarified that in case the petitioner fails to submit her representation within the specified time, the respondent-bank would be at liberty to proceed in accordance with law.

6. Status quo 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

16.01.2019
sonia

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