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

CWP No.30575 of 2018
Decided on : 25.01.2019

Sachin Verma & ors. ...... Petitioners

Versus

Indiabulls Housing Finance Ltd. ...... Respondent

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

Present : Mr. Gaurav Aggarwal, Advocate for
Mr. Saurav Bhardwaj, Advocate
for the petitioners.

Mr. V.K.Sachdeva, Advocate
for the respondent.

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Manjari Nehru Kaul, J.

The instant 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 notices dated 11.06.2018 (Annexure P-3) and dated 23.08.2018 (Annexure P-4) issued under Sections 13(2) and 13(4) respectively of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act').

2. Brief facts of the case are that petitioner No.3 along with her husband namely Brij Lal Verma had availed a term loan amounting to ₹ 1,47,90,000/- from the respondent-bank in the year 2016 for running their business. The said loan was to be repaid in 180 months on monthly installment of ₹ 1,72,775/-. To secure the credit facility, following property was mortgaged:

"Plot No.40, House Tax No.B-19/716 (measuring 120 ft. x 30 ft.) totally 400 sq. yards situated at Timber Market , Dakhli, Rania Road, Sirsa."

3. According to the petitioners, they were regular in paying the monthly installments till January, 2018. However, after the death of Sh. Brij Lal Verma on 18.02.2018, they could not pay the monthly installments in time as a consequence of which their loan account was declared as Non-Performing Assets on 08.06.2018. The respondent-bank issued notice dated 11.06.2018 (Annexure P-3) under Section 13(2) of the Act and asked the petitioners to make a payment of ₹ 1,52,12,483/-, which was due as on 08.06.2018. Thereafter, the respondent-bank issued possession notice dated 23.08.2018 (Annexure P-4) under Section 13(4) of the Act to the petitioners. Feeling aggrieved, the present writ petition has been filed.

4. Vide order dated 03.12.2018, notice of motion was issued in the following terms:

"Learned counsel for the petitioners states that petitioners are prepared to discharge the outstanding liability in due course. To show their bona fides, Annexure P-9 has been appended, which is a photocopy of the Demand Draft bearing No."000072", dated 03.10.2018, amounting to ₹ 25.00 lakhs, drawn in favour of the respondent. It was further stated that this amount is in addition to ₹ 52,76,691/-, which was paid on 15th September, 2018.

Notice of motion to the respondents for 25.01.2019.

Notice regarding stay as well.

Process dasti only.

The demand draft of ₹ 25.00 lakhs, shall be deposited by *the petitioners with the respondent within a period of five days. It is, however, directed that the respondent shall encash the same without prejudice to its rights in the writ petition.*

In the meantime, status quo shall be maintained."

5. Learned counsel for the petitioners submitted that the petitioners are ready and willing to clear the outstanding dues or to regularize their account 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 petitioners shall approach the respondent-bank within two weeks 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 petitioners sympathetically in accordance with law, after affording an opportunity of hearing to the petitioners 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 six weeks from the receipt of such representation.
4. It is clarified that in case the petitioners fail to submit their representation 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 03.12.2018 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

25.01.2019
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No