IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.24053 of 2019
Date of Decision : 03.09.2019

Rajat Kundra and another

.....Petitioners

Versus

Authorized Officer, Reliance Home Finance Ltd. and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Rahul Sharma, Advocate for the petitioners.

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RAKESH KUMAR JAIN, J. (ORAL)

The petitioners are the legal representatives of one Kewal Krishan Kundra who has allegedly taken a loan of ₹90,00,000/- on two accounts from respondent No.1. It is submitted that the said borrower had obtained an insurance policy from respondent No.2 to cover the risk of the payment of loan amount. The said policy is valid for a period of 5 years upto 13.08.2022. The borrower died on 09.09.2019. Both the loan accounts became irregular and as such were declared as NPA and then the proceedings under Section 13 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act') were initiated which culminated upto the order passed under Section 14 by the District Magistrate. It is not in dispute that the petitioners have already challenged the notice issued under Section 13(2), 13(4) and order passed under Section 14 by way of SA No.77 of 2019 before the Debts Recovery Tribunal-III, Chandigarh. It is also not in dispute that the petitioners have also filed a miscellaneous application IA No.494 of 2019 in order to restrain respondent No.1 from taking physical possession of the mortgaged property. Both the applications i.e. SA No.77 of 2019 and IA No.494 of 2019 have already been dismissed by the Tribunal on 21.08.2019.

The question arises as to whether the petitioners can invoke the extra ordinary jurisdiction of this Court under Article 226/227 of the Constitution of India specially when the petitioners have the remedy of appeal in terms of Section 18 of the Act?

Although counsel for the petitioners has submitted that the risk has already been covered by the policy obtained by the deceased/borrower but we are of the considered opinion that in the presence of a statutory remedy of appeal, the petitioners cannot invoke the extra ordinary jurisdiction of this Court under Article 226/227 of the Constitution of India and hence the present petition is hereby dismissed as not maintainable in view of the availability of statutory remedy. The petitioners may, if so advised, avail their statutory remedy in accordance with law.

(RAKESH KUMAR JAIN)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

03.09.2019
Kothiyal

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