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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 34328 of 2019
Date of Decision: 26.11.2019

PALA RAM AND ANOTHER *... Petitioners*

VS.

STATE BANK OF INDIA *...Respondent*

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.
HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Parveen Chauhan, Advocate,
for the petitioners.

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RAKESH KUMAR JAIN, J. (Oral)

The petitioners have prayed for the issuance of a writ in the nature of mandamus for directing the respondent-Bank to upgrade their loan account.

The petitioners had earlier approached this Court by way of ***CWP No. 13186 of 2018*** titled as ***Pala Ram And Another*** Vs. ***State Bank of India*** in which they had sought the issuance of the same direction to the respondent-Bank, as has been prayed in the present petition, to upgrade their loan account as per clause 4.2.5 of the RBI Master Circular/Guidelines dated 02.07.2012, after the payment of the overdue amount. The said writ petition was disposed of vide order dated 27.08.2018 (Annexure P-1) with the following observations:-

> *"The present writ petition has been filed seeking a direction to the respondent-bank to upgrade the loan account as per Clause 4.2.5 of the RBI Master Circular/Guidelines and to regularize the loan account after payment of overdue amount by the petitioners. Further, a prayer has been made for direction to the respondent to unseal the house of the petitioners.*

2. *State Bank of India, Hisar has been arrayed as respondent.*
3. *The petitioners availed a loan facility of ₹15 lakhs from State Bank of Patiala on 06.08.2015. In order to secure the loan, H.No.37, Gali No.10, 12 Quarter Road Shiv Nagar Tibba Danaser, Hisar was mortgaged.*
4. *The petitioners defaulted in repayment of the loan due to some financial constraints. In February 2017, the State Bank of Patiala merged with State Bank of India. The officials of the respondent-bank took possession of the mortgaged house on 08.05.2018 and it was auctioned. Being aggrieved, petitioners filed the present writ petition.*
5. *Learned counsel for the petitioners contended that the petitioners are ready to pay the overdue amount within a reasonable period and undertake that future installments shall be paid regularly. Notice of motion was issued on 23.05.2018 and the bank was directed to inform the overdue amount to the petitioners within one week.*
6. *During pendency of writ, an application was moved by the petitioners that they have paid the overdue amount and the bank be directed to restore the possession of the residential house to the petitioners. The notice of the application was issued on 17.08.2018.*
7. *On 23.08.2018, learned counsel for the respondent-bank contended that the account of the petitioners has been regularized. The respondent-bank was directed to deliver the possession of the residential house to the petitioners by 24.08.2018 and to submit the compliance report on 27.08.2018.*
8. *Heard learned counsel for the parties.*
9. *Learned counsel for the petitioners states that the possession of the residential house has been restored to the petitioners. The petitioners undertake to regularly deposit the remaining installments.*

10. Learned counsel for the respondent-bank submits that the account of the petitioners has been regularized.

11. In view of the above statements made by the counsel(s) for the parties, the writ petition is disposed of.

12. It is, however, clarified that in case of any default is made by the petitioners in paying the balance installments, the bank would be at liberty to proceed in accordance with law."

Though, the petitioners had paid the installments till January 2019 but defaulted thereafter and therefore, respondent-Bank has started the alleged measures for taking possession of the mortgaged property of the petitioners.

The prayer made in this petition is, thus, for affording the petitioners some more time to pay the overdue amount.

We have heard counsel for the petitioners and after perusal of record, are of the considered opinion that the prayer made by the petitioners cannot be granted simply because of the reason that the petitioners had committed default in re-payment of installments even after passing of the order dated 27.08.2018 passed by this Court in their earlier writ petition. In the said petition, the petitioners had categorically gave an undertaking to deposit the remaining installments regularly and that on the said undertaking, the account of the petitioners was regularized. It was also made clear in the order dated 27.08.2018 that "*it is, however, clarified that in case of any default is made by the petitioners in paying the balance installments, the bank would be at liberty to proceed in accordance with law."*Since, the order passed by this Court on 27.08.2018 was per-emptory in nature, therefore, the petitioners cannot seek the same relief as has been sought in the earlier petition. Hence, there is hardly any merit in the present petition and therefore, the same is hereby dismissed as such.

(RAKESH KUMAR JAIN)
JUDGE

November 26, 2019
Ess Kay

(SUVIR SEHGAL)
JUDGE

Whether speaking / reasoned	***:***	***Yes / No***
Whether Reportable	***:***	***Yes / No***