

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.18452 of 2020

Date of Decision:-05.11.2020

Jyoti @ Jyoti Devi.

.....Petitioner.

Versus

Indiabulls Housing Finance Ltd., & Ors.

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present:- Dr. Naresh Kaushik, Advocate for the Petitioner.

JASWANT SINGH, J.(ORAL)

[The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court]

The Petitioner had raised a home loan for a sum of Rs.32,33,007/- on 01.06.2013 from respondent no.1-Financial Institution. The loan was to be paid in 180 equated monthly installments in 15 years. Due to non payment of due monthly installments, the loan account was declared as NPA on 30.09.2016 and demand notice of even date i.e. 30.09.2016 under Sections 13(2) of the SARFAESI Act, 2002 was issued recalling the loan facility and the obligors were called upon to repay the outstanding amount of Rs.35,07,961/- as on 30.09.2016 along with future interest at the rate of 14.5% per annum w.e.f. 1.10.2016 till actual date of payment within 60 days from the date of receipt of said notice, together with any interest, penal interest, cheque bouncing charges, cost and other charges.

The said demand notice dated 30.09.2016 was challenged by the petitioner before DRT-II, Chandigarh. The application for condonation of delay was dismissed by DRT on 08.11.2017 against which petitioner

preferred an appeal before the DRAT, Delhi. In compliance of the directions of learned DRAT, Delhi, petitioner deposited Rs.17,54,000/- thus satisfying the DRAT condition of pre-deposit. The said appeal was allowed by DRAT Delhi on 7.2.2020 and deposited amount of Rs.17,54,000/- was refunded to the petitioner. Now SA is pending before the DRT-II for adjudication on merit.

During the pendency of SA before the DRT-II, the symbolic possession under Section 13(4) of the SARFAESI Act, 2002 of Plot No.859, Residential Sector 25, Part-2, HUDA, measuring 187 Sq. Mtr, Panipat, Haryana was also assumed on 15.10.2020. The petitioner filed an application under Section 17 of the SARFAESI Act before the DRT, Chandigarh, which is stated to be pending. In the light of the physical possession having been taken by the respondent No.1, petitioner has filed the present writ petition.

At the time of hearing, realising that the appropriate remedy is before the DRT, learned Counsel for the petitioner prays for permission to withdraw the present writ petition to enable his client to seek his remedy in accordance with law.

Dismissed as withdrawn with aforesaid liberty.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

November 05, 2020
Vinay

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No