IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-19589-2020
Date of Decision:-18.11.2020

Ashwani Kumar Gupta

… Petitioner

Versus

Tata Capital Housing Finance Limited

... Respondent

*****

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH

****

Present:- Mr. Atul Goyal, Advocate
for the petitioner.

*****

KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of COVID-19 Pandemic.

The petitioner has filed the instant writ petition to direct the respondent-finance company to redeem his property upon the payment of outstanding amount as mentioned in the notice issued under Section 13 (2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter be called as 'the Act of 2002'), with further prayer to set aside the auction conducted by the respondent and not to finalize the sale during the pendency of the writ petition.

The case of the petitioner is that he took home loan of ₹23,75,000/- and ₹76,00,000/- from the respondent in the year 2016 against loan accounts No.9604027 and 9604209. In order to secure the said home loan, the petitioner mortgaged his property bearing plot No.18 situated in village Barewal Awana Abadi, Tehsil and District Ludhiana, with the respondent. The petitioner defaulted in repayment of the loan, as he suffered financial losses. The loan accounts of the petitioner were declared NPA on 9.5.2018. The proceedings were initiated by the respondent under the Act of 2002. Notice under Section 13(2) of the Act of 2002 was issued to the petitioner, as per which total outstanding dues were ₹99,60,724/-. Pre-sale notice dated 10.10.2020 (Anneuxre P-3) was also issued by the respondent. The petitioner offered to effect one time settlement with the respondent and in this regard he filed CWP-17862-2020. However, the respondent refused to effect any compromise and finally the writ petition was dismissed as withdrawn vide order dated 28.10.2020 (Annexure P-4). The present writ petition has been filed by the petitioner to repay the due amount to respondent as per schedule given in para No.12 of the writ petition. As per the said schedule the final installment is to be paid by 31st, December, 2021.

We have heard the counsel for the petitioner.

In the previous writ petition, the petitioner offered to settle the loan account by paying ₹65 lakhs against the current outstanding amount of Rs.99,75,000/-. However the said offer was not acceptable to the respondent and finally the writ petition was dismissed as withdrawn vide order dated 28.10.2020 (Annexure P-4). Immediately, thereafter the present writ petition has been filed involving the same subject matter. Now the petitioner has offered to pay an amount of ₹1 crore upto 31.12.2021 as per schedule given in para No.12 of the writ petition. At present, no 'One Time Settlement' (OTS) scheme is functional. The Court cannot direct the respondent to accept the offer of settlement given in the present writ petition. The respondent being finance company has already initiated recovery proceedings against the petitioner under the Act of 2002. The petitioner is at liberty to take recourse to the efficacious alternative remedy available to him under the Act of 2002, to challenge the same.

Consequently, this writ petition is hereby dismissed, with liberty aforesaid.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

18.11.2020
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No