

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

CWP-36127-2019 (O&M)
Date of Decision:-18.11.2020

Smt. Priyanka Batra

... Petitioner

Versus

District Magistrate and others

... Respondents

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

Present:- Mr. Aalok Jagga, Advocate
for the petitioner.

Mr. Raman Sharma, Addl. A.G., Haryana.

Mr. S.S. Narula, Advocate, for respondent No.2.

KARAMJIT SINGH, J.

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

Prayer in this writ petition is for quashing the impugned notice
dated 6.12.2019 (Anneuxre P-11) issued under Section 13 read with Section
14 of the Securitization and Reconstruction of Financial Assets and
Enforcement of Security Interest Act, 2002 (hereinafter be called 'the Act'),

vide which the respondents intend to take physical possession of the residential house of the petitioner. The petitioner has further prayed that necessary direction be given to respondent No.2-HDFC Bank, Yamuna Nagar to place on record one time settlement ('OTS policy') and consider settlement of the loan account of the petitioner for which proposal dated 20.11.2018 (Annexure P-6) has already been submitted.

Notice of motion was issued to the respondents on 12.12.2019.

In its written statement, respondent No.2 has specifically pleaded that sum of ₹1,23,24,193.50/- is standing due against the petitioner and the petitioner paid last installment in January, 2017. The account of the petitioner was declared as Non-performing Assets ('NPA') on 30.9.2017. The demand notice dated 16.11.2017 under Section 13(2) of the Act was issued to the petitioner as well as co-borrowers. The bank has also taken action under Section 13(4) of the Act. The District Magistrate, Yamuna Nagar has passed order under Section 14 of the Act allowing the bank to take physical possession of the mortgaged property i.e. Plot No.2289, Sector 17, Urban Estate Jagadhri (Yamuna Nagar). The date of taking possession of the aforesaid property was fixed as 12.12.2019. The respondent No.2 also took preliminary objection that the present petition is not maintainable as the effective alternative remedy is available with the petitioner under the Act.

We have heard the counsel for the parties and also gone through the record.

The counsel for the petitioner while referring Annexure P-6, submitted that earnest request was made by the petitioner to the bank to

effect one time settlement. However, the bank failed to respond. Even now the petitioner, who is widow, is ready to effect settlement with the bank. It is further contended that as the petitioner has offered to settle the dispute with the bank, this Court has got jurisdiction to deal with the matter.

On the other hand, the counsel for respondent No.2 submitted that the offer of ₹95,00,000/- given by the petitioner against the total amount of ₹1.23 crores was not acceptable to the bank. It is further submitted that as no settlement has been effected between the parties, the only remedy available with the petitioner was to approach the Debt Recovery Tribunal (hereinafter be called as 'DRT').

We have considered the submissions made by the counsel for the parties.

In this case borrowers including the petitioner failed to pay the due installments, as a result of which their loan account was declared as NPA on 30.9.2017. Respondent No.2-HDFC bank has already initiated proceedings against all the borrowers under the Act, as is clear from the impugned notice (Annexure P-11) issued under Section 13 (4) of the Act. As per the said notice all the borrowers including the petitioner were called upon to pay due amount worth ₹89,73,916/-. Instead of giving any reply to the said notice, the petitioner filed the present writ petition to challenge the same.

Admittedly in the present case efforts made by the petitioner to effect settlement with respondent No.2 HDFC Bank, did not fructify. We cannot compel the bank to effect one time settlement with the petitioner on

the terms, which are not acceptable to it. In the given circumstances the petitioner has got alternative remedy under the Act to approach the DRT, in order to challenge impugned notice (Annexure P-11).

Consequently, we are not inclined to interfere. Hence this writ petition is dismissed. However, the petitioner is at liberty to approach the DRT, if so advised.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

18.11.2020
Gaurav Sorot

Whether reasoned / speaking?

Yes / No

Whether reportable?

Yes / No