

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

**CM No. 12750-CWP of 2021 in/and
Civil Writ Petition No. 2412 of 2021 (O&M)
Date of Decision: 04.10.2021**

Meena Thapar and another

..... Petitioners

Versus

State Bank of India, Ludhiana and another

..... Respondents

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

Present: Mr. Aalok Jagga, Advocate for the applicants-petitioners.

Mr. Anupam Gupta, Senior Advocate, assisted by
Mr. Akshay Jain, Advocate
for respondent No. 1 – State Bank of India.

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

JASWANT SINGH, J. (ORAL)

CM-12750-CWP-2021

Prayer in the present application under Section 151 CPC moved by the applicants-petitioners is for preponement of the date of hearing in the main case from 10.11.2021 to an earlier date.

Upon notice, learned counsel for respondent No. 1 – Bank has no objection if the present application is allowed and the main case is preponed from 10.11.2021 to today itself.

Accordingly, the present application is **allowed** and the main case is taken up today itself.

MAIN CASE

The two petitioners, i.e. Meena Thapar (petitioner No.1) and her husband Harsh Thapar (petitioner No.2) are the guarantors and former

Directors of M/s. Thapar Knitwears Private Limited, which had availed

credit facility to the tune of ₹ 21.50 Crores in the year 2013 from the State Bank of India (respondent No. 1). Due to lack of financial discipline, the loan account was declared Non-Performing Asset (NPA) on 31.03.2015. A Demand Notice dated 28.04.2015 (**Annexure P-1**) under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short “**the Act, 2002**”) was issued for recalling a sum of ₹ 23 Crores as on 27.04.2015. Pursuant to thereof, the Bank proceeded against various secured assets, details of which have been provided in para-4 of the petition and some of the secured assets have been sold, whereas a residential house of the petitioners measuring 153 Sq. Yards Madhopuri, Ludhiana could not get a buyer inspite of having put to sale for seven (7) times since 2019 with a consistent Reserve Price of Rs.66 Lakhs.

The petitioners submitted a proposal dated 25.01.2021 (**Annexure P-10**) and proposed a prospective buyer, namely, *Anil Katyal*, who was ready to purchase the said residential house for ₹ 66 Lakhs and attached a demand draft of Rs. 6.60 Lakhs, representing 10% of the offered amount. The said proposal was submitted in terms of Circular of the respondent – Bank dated 01.11.2017 (**Annexure P-9**) titled as “*Sale of Secured Assets through private treaty under SARFAESI Act, 2002.*” In terms of Clause 3 and 4 of the said Circular, the Bank was entitled to sell the property through private treaty, after unsuccessful attempts in selling the secured assets. The respondent – Bank rejected the said proposal vide letter dated 27.01.2021 (**Annexure P-13**), which has been impugned in the present petition.

This Court, while issuing notice of motion vide order dated

one (01) week, pursuant to which further action *qua* the residential house was stayed till the next date of hearing as the petitioners apprehended dispossession. Undisputedly, the said order has been complied with.

On 01.04.2021, this Court heard the matter at some length and after hearing both the sides, noticed that the Bank on one hand was not able to get a buyer for ₹ 66 Lakhs, inspite of seven (07) unsuccessful attempts to sell the property whereas it was reluctant to accept the bid of a prospective buyer for ₹ 66 Lakhs, even though the same was permissible in terms of Circular 01.11.2017 **(P-9)**. The petitioners had relied upon letter dated 03.06.2020 **(Annexure P-16)**, whereby the respondent – Bank had granted similar permission to another borrower of the Bank for release of property on deposit of the assessed value of the said property even though the same was never put to auction. The petitioners, therefore, had alleged discrimination. Consequently, the respondent – Bank was directed to file an affidavit to disclose as to in how many cases such permission had been granted under the Circular dated 01.11.2017 **(P-9)** permitting release of property on deposit of the value assessed.

Pursuant to thereof, the parties negotiated and the Bank has come up with the proposal wherein it has agreed to sell / release the residential house by way of private treaty on deposit of ₹ 68 Lakhs by the prospective purchaser. Learned Senior Counsel for the respondent – Bank further submits that the petitioners would be required to deposit a sum of ₹ 58 lacs and the demand draft of ₹ 10 Lakhs submitted by the petitioners in compliance of the order dated 02.02.2021, is required to be re-validated, within fifteen (15) days for the release of title deed of the mortgaged

residential house.

In response, learned counsel for the petitioners submits that the petitioners have agreed to the same and states that the sale amount of ₹ 68 Lakhs shall be deposited within fifteen (15) days and the demand draft of ₹ 10 Lakhs shall also be re-validated, and also concedes that nothing more survives for adjudication in the light of the stand taken by Bank.

In view of the aforesaid consensus between the parties, we **disposed off** the present petition by granting liberty to the petitioners to deposit ₹ 68 Lakhs within fifteen (15) days i.e. by 20.10.2021. The demand draft of ₹ 10 Lakhs shall be handed over by the Bank to the petitioners by 07.10.2021 and the re-validated demand draft shall be submitted by the petitioners within the aforesaid prescribed time period. On deposit of the aforesaid amount of ₹ 68 Lakhs by the prospective purchaser, the respondent – Bank shall issue sale certificate in terms of Rule 9 (6) of Security Interest Enforcement Rules, 2002 and shall also handover all original title deeds pertaining to the residential house in question to the petitioner / purchaser. The parties shall be bound by their respective submissions.

Since the main case itself has been decided, no orders are required to be passed in the pending applications(s), if any, and the same stand(s) disposed of.

(JASWANT SINGH)
JUDGE

October 04, 2021

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(SANT PARKASH)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No