IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 9386 of 2021 (O&M)
Date of Decision: 02.09.2021

Shree Baba Uddel Dev Education Society,
Village Bhaini Maharajpur, Tehsil Meham,
District Rohtak, Haryana through its authorized
signatory Ram Niwas and others

.... Petitioners

Versus

M/s. Dewan Housing Finance Corporaion Limited
through is Zonam Manager, Noida, Uttar Pradesh
and another

.... Respondents

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

Present: Mr. Pankaj Maini, Advocate
for the petitioners.

Mr. Harsh Chopra, Advocate
for the respondents – DHFL.

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

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JASWANT SINGH, J. (ORAL)

Petitioner No. 1 - Shree Baba Uddel Dev Education Society is running the Baba Uddel Dev Senior Secondary **School**, Village Bhaini, Maharajpur, Tehsil Meham, District Rohtak. Petitioner Nos. 2 to 4 are the members of petitioner No. 1 – Society.

The petitioner – Society had availed a term loan for a sum of ₹ 2,50,56,521/- on 30.10.2017 from the Dewan Housing Finance Corporation Ltd. (DHFL) / respondents. The term was required to be paid back by way of Equated Monthly Installments (EMIs) of ₹ 3,66,827/- in ten (10) years.

The respondents - DHFL issued a Life Insurance Certificate dated 02.11.2017 **(Annexure P-3)** with single premium of ₹ 41,770.76/- in respect of petitioner No. 4 (Sonu Rani) to secure its loan. Petitioner No. 4

was died on 17.05.2019 and the respondents credited the amount of ₹ 27,82,334/- on 18.10.2019 under the Life Insurance Certificate (P-3) issued to her (petitioner No. 4). It is averred that the respondents instead of reducing the EMIs of the petitioner – Society, had reduced the loan amount to the tune of ₹ 27,82,344/- without intimating the petitioners.

Due to lack of financial discipline on account of COVID-19, the petitioners could not pay its installments well in time and the loan account was declared as Non-Performing Asset (NPA).

A Demand Notice dated 20.03.2020 under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short "the SARFAESI Act, 2002") was issued to the petitioners seeking to repay the outstanding amount of ₹ 2,15,17,010/-. Subsequently, a Possession Notice dated 21.03.2021 **(Annexure P-6)** under Section 13 (4) of the SARFAESI Act, 2002 was issued.

Present petition has been filed seeking the quashing of the aforesaid notice dated 21.03.2021 **(P-6)** under Section 13 (4) of the SARFAESI Act, 2002, as the respondents have not provided the demand notice dated 20.03.2020 under Section 13 (2) of the SARFAESI Act, 2002 to the petitioners even its representation dated 15.04.2021 **(Annexure P-7)** and E-mail dated 16.04.2021 **(Annexure P-8)**.

This Court, vide order dated 05.08.2021, had directed the counsel for respondents – DHFL, to file an affidavit of the Authorised Officer of M/s. Dewan Housing Finance Corporation in respect of the compliance of the provisions of Section 13 of the SARFAESI Act, 2002.

In compliance of the aforesaid order dated 05.08.2021, an affidavit dated 01.09.2021 of Sh. Hari Sharan Singh, Authorised Officer, DHFL. has been filed, which is taken on record. A perusal of the same reveals that perhaps the procedures for service of the notice(s) under Section 13 of the SARFAESI Act, 2002 were not strictly complied with.

Be that as it may, the petition lacking in material particulars, as also filed on behalf of a dead person (petitioner No. 4) would not be maintainable.

At this stage, counsel for the petitioners prays for permission to withdraw the writ petition to enable his clients to file a fresh one with better particulars.

Dismissed as withdrawn with the liberty, as prayed for.

(JASWANT SINGH)
JUDGE

September 02, 2021
'dk kamra'

(SANT PARKASH)
JUDGE

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