IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CWP No.13331 of 2021(O&M)

Date of Decision:-23.07.2021

Ajit Singh & Anr.

......Petitioner.

Versus

Authorized Officer, ICICI Home Finance & Anr.

......Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE GIRISH AGNIHOTRI

Present:- Mr. Rakesh Bhatia, Advocate for the Petitioner.

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JASWANT SINGH, J.(ORAL)

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

Petitioner-borrower is stated to have availed loan of Rs. 24.50 Lacs from the respondent bank on 31.12.2008. The grievance of the petitioner is that at the time of grant of loan, the bank illegally deducted Rs. 1.30 Lacs and transferred the same to ICICI Prudential Life Insurance. The petitioner argues that it had never agreed to avail such policy and the respondent had wrongly sent the said policy at an incorrect address. On a complaint (Annexure **P-4**) submitted by the petitioner to the Ministry of Finance, Government of India, the petitioner claims that an amount of Rs. 35,276.80 has been refunded by way of cheque, though it is yet to be encashed. The grievance of the petitioner is that firstly the entire amount of Rs. 1.30 Lacs alongwith interest has not been refunded and secondly, the

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said amount ought to be adjusted/set-off against the pending overdues. The petitioner also lays challenge to the notice dated 28.05.2021 (Annexure **P-2**) issued by the respondent bank under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

We find that there are factual issues involved in the present petition which needs examination and verification before the plea of the petitioner could be appreciated. It would also require examination as to the manner in which the Insurance Policy was obtained by the parties at the time of availing the loan. This in our opinion would not be possible at this stage in a writ jurisdiction.

We find that the Reserve Bank of India has formulated "The Banking Ombudsman Scheme, 2006" in exercise of its powers under Section 35A of the Banking Regulation Act, 1949. Chapter IV provides for Procedure for Redressal of Grievance. Clause 8 thereof provides for Grounds for filing Complaint before the Banking Ombudsman. Clause 9 prescribes the Procedure of filing such Complaints. Clause 10 provides power and jurisdiction to the Ombudsman to collect Information. After examining the evidence produced by the parties and the information so collected, the Ombudsman has to pass an Award in terms of Clause 12 and Clause 13 thereof. The remedy of appeal is also provided under Clause 14 thereof. It is thus evident that there is a mechanism available, for ventilation of the grievance of petitioner, which involves examination of records and consequent appreciation of respective submissions, especially when disputed questions of facts are involved.

In these circumstances, while refraining ourselves from

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examining the instant controversy on merits, we deem it appropriate to relegate the petitioner to the remedy of filing complaint under Clause 8 of the aforesaid Scheme, 2016. In case, if any such complaint is filed, the Banking Ombudsman shall examine the same in accordance with law and shall pass an award expeditiously but in any case not later than 2 months from the date of filing of such complaint.

The present petition is thus **disposed off**, with the aforesaid observations.

(JASWANT SINGH)
JUDGE

(GIRISH AGNIHOTRI)
JUDGE

July 23, 2021
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Whether speaking/reasoned	***Yes/No***
Whether Reportable	***Yes/No***

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