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

CWP-18428-2021

Date of Decision:28.09.2021

Deepak Kataria and another

...Petitioners

Versus

Punjab & Sind Bank and others

...Respondents

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

**Present: Mr. Surinder Garg, Advocate,
for the petitioners.**

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

SANT PARKASH, J.

The petitioners as well as respondents No.2 and 3 entered into a Partnership Agreement dated 25.04.2016 with a purpose to deal with the business of Resort or Palace under the name and style of M/s Grand Sierra. They had availed financial assistance of Rs.1.20 Crore from the respondent-Bank on 18.08.2018. Petitioners and respondents No.2 and 3 had mortgaged the commercial property situated near Railway Station Gidderbaha and Residential Property situated at Aggarwal Colony, Gidderbaha against the said loan facility. Due to financial indiscipline, the loan account became NPA, following which the respondent-Bank initiated proceedings under the SARFAESI Act. Notice dated 19.07.2021 (P-4) issued under Section 13(2) of the SARFAESI Act is fallout of the same.

Petitioners filed the present writ petition, inter alia, for setting aside the notice dated 19.07.2021 (P-4) and subsequent proceedings arising

therefrom on the ground that their loan account was wrongly declared as NPA.

The main contention of the learned counsel for the petitioners is that a total amount of Rs.39 Lakhs has been deposited up-to 31.03.2019 regarding the repayment of loan. Thereafter, respondents No.2 and 3 refused to make any payment qua the loan amount. On refusal by respondents No.2 and 3, the petitioners approached the respondent-Bank to get their share deposited regarding the loan amount.

This Court has heard the learned counsel for the petitioners.

The grievance raised by the petitioners herein regarding deposit of their share qua the financial liability is not sustainable. It is a settled proposition of law that liability of petitioners and that of respondents No.2 and 3 is joint and several and the petitioners have got remedy to recover the amount after making full payment by taking appropriate steps. It is not permissible in law that any partner/guarantor can be allowed to make the payment of his own share.

Faced with the above-said situation, learned counsel for the petitioners submits that he may be permitted to withdraw the present writ petition with liberty to avail alternative remedy before the appropriate forum

In view of the above, the instant writ petition is dismissed as withdrawn with liberty as prayed for.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

28.09.2021

mks

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO