

Neutral Citation No. 2023:PHHC:63722-DB
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(241)

CWP-6557-2020
Decided on : 03.05.2023

Rajesh Chhabra and others

.....Petitioner(s)

Versus

Indian Overseas Bank and another

.....Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN

Present: None for the petitioner (s).

G.S. Sandhawalia, J. (Oral)

In the present writ petition filed under Article 226 of the Constitution of India challenge has been made primarily to the sale notice of the mortgaged property and the action under Section 14 of the Securitization and Re-construction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short '2002 Act').

2. Paragraph No.4 of the petition would go on to show that sale of mortgaged property namely ESPACE-299 Nirvana Country, South City-II, Phase-II, Gurugram has been done and the petitioner is stated to be ready to deposit more amount than the highest bid to retain his only residential house. However, the auction purchaser has not been impleaded as party. Representation dated 22.02.2020 (Annexure P-3) is stated to have been filed, wherein request for OTS as such has been mentioned. As per Annexure P-2, the outstandings of the group are as under:-

- “1. M/s Cellpage Communications: Rs.13,07,33,107.10 as on 31.12.2013;
2. M/s Cellpage Communications Pvt. Ltd.: Rs.1,31,99,351.47 as on 31.03.2014;
3. M/s R.C. Enterprises: Rs.1,60,62,113,77 as on 31.03.2014;
4. M/s Apex Infocom: Rs.75,28,744.10 as on 31.03.2014 and
5. Rajesh Chhabra & Anuja Chhabra: Rs.65,18,500.91 as on 31.03.2014.”

3. The OTS offer was of ₹4.35 crores and notice of motion was issued on 12.03.2020. Process fee has not been filed and none had put in appearance on behalf of the petitioners on 20.01.2023. Even today none has appeared. Apparently, the petitioners have lost interest in the present litigation as nothing has been brought on record to show their bonafides before the OTS is acted upon. Even otherwise the remedy lies before the Debts Recovery Tribunal under Section 17 of the 2002 Act against the property which has been put to auction, in view of the law laid down in **SLP (Civil) Nos.22021-22022 of 2022** titled **M/s South Indian Bank Ltd. & others Vs. Naveen Mathew Philip & another**, decided on 17.04.2023.

4. Resultantly, the present writ petition is dismissed for want of prosecution with the liberty to approach the Debts Recovery Tribunal.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

03.05.2023
Naveen

Whether speaking/reasoned :	Yes	
Whether Reportable :		No