

CWP-14661-2022

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2023:PHHC:146267-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-14661-2022 (O&M)
Date of Decision: 09.11.2023

REEMA GUPTA

... Petitioner

VERSUS

ADITYA BIRLA HOUSING FINANCING LTD. AND OTHERS

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE

Present: None for the petitioner.

Mr. Harsh Chopra, Advocate
for respondents No.1 and 2 (through Video Conferencing).

LISA GILL, J.(Oral)

1. Prayer in this writ petition is for setting aside notice dated 15.05.2021 (Annexure P-5) issued under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act), 2002 besides a direction to respondent- Aditya Birla Housing Finance Limited to refrain from taking any adverse measures against the petitioner besides rescheduling the loan amount.

2. Notice of motion was issued in this writ petition on 14.07.2022. Subsequently, on 16.08.2022, following order was passed:-

“The petitioner alongwith her husband had availed the loan facility to the tune of Rs.15,91,200/- from respondent No.1 for the purpose of purchasing a residential house. As the petitioner defaulted in making repayment, the loan account was declared NPA and notice under Section

13(2) of SARFAESI Act, 2002 (Annexure P/5) was issued. As per the said notice, an amount of Rs.17,15,778.71 was outstanding as on 04.05.2021.

Learned counsel for the petitioner states that the respondents propose to auction the secured asset which is the residential house of the petitioner where she is residing alongwith her two minor children. The petitioner is ready and willing to repay the entire amount provided sufficient time is granted to her.

Adjourned to 28.09.2022.

If the petitioner deposits an amount of Rs.7,00,000/- with respondent No.1 on or before 15.09.2022, the auction of the secured asset i.e. the residential house of the petitioner shall remain stayed. It is made clear that if the petitioner does not deposit the said amount within four weeks, the petitioner would be burdened with costs of Rs.50,000/- and the petition would be deemed to be dismissed.

Till the next date of hearing, status quo regarding possession shall be maintained.”

3. Learned counsel for respondents No.1 and 2 points out that the amount in terms of order dated 16.08.2022 has not been deposited. This fact is also apparent from CM-15506 of 2022 filed on behalf of the petitioner seeking modification of order dated 16.08.2022, seeking grant of more time to deposit the amount and for setting aside cost of Rs.50,000/-. This application was not taken up for hearing.

4. None appeared on behalf of the petitioners on the last date of hearing i.e. 08.11.2023 when this writ petition was adjourned for today to await appearance on behalf of the petitioner but today again despite the matter being called twice, there is no representation on behalf of the petitioner. It appears that petitioner is not interested in pursuing

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5. Writ petition is accordingly dismissed in default and for non-prosecution.
6. Pending applications, if any, stand disposed of accordingly.

(RITU TAGORE)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No