Neutral Citation No. 2023:PHHC:065988-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(205) **CWP-20531-2022**
Decided on :08.05.2023

Gurmeet Singh and another

……Petitioner(s)

Versus

State of Punjab and others

…Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE GURBIR SINGH

Present: None for the petitioner (s).

Mr. Rahul Garg, Advocate for respondent Nos.3 & 4.

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G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition filed under Article 226/227 of the Constitution of India is to the securitization proceedings including notice dated 30.06.2022 (Annexure P-2) issued under Section 13 (4) of the Securitization and Re-construction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short '2002 Act'), wherein a sum of ₹11,27,851/- was the outstanding amount.

2. On 20.09.2022, the following order was passed:-

> "Notice of motion for 15.12.2022.
>
> Subject to the petitioners paying 3 Lakhs to the respondent No.3 and 4-Bank within one week from today, the Bank shall take appropriate decision of the request for OTS made on 25.08.2022 (Annexure P-4) made by the petitioners, and communicate their decision to the petitioners within 4 weeks from today.
>
> Till the next date of hearing, no coercive action shall be taken by the respondents No.3 and 4 against the petitioners."

3. As per office report, process has not been filed, therefore, notices to respondents could not be issued. Even counsel has not filed any application bringing to the notice of this Court that the amount was deposited.

4. Mr. Garg has placed on record the letter dated 15.10.2022, wherein the OTS has been rejected for the following reasons:-

> "1.That on very outset your representation is full of false allegations against the Bank. That we wish to inform that all the steps taken by Bank under SARFAESI is under due process of Law.
>
> 2.That Bank had not appreciated that on one hand you have acknowledged your debt and is requesting/forcing bank to settle the account and other hand you had levied false allegation.
>
> 3.That it is in your express knowledge that you willfully had not adhered to financial discipline as agreed and further had not repaid your whole outstanding debt in the said loan account. That this is to inform you that as on today your dues are Rs.10,21,539/- in the said loan account.
>
> 4.That as far as your OTS proposal is concern we wish to inform that it is matter of sacrificing the PUBLIC MONEY which you cannot claim as a matter of right. That the Bank cannot allow to sell the mortgaged property as per Sale deed no. number 2019-20/83/1/1541 dated:03-09-2019 and vide mutation no.26541.Again you are requested to clear your outstanding. That unless whole dues are paid Bank cannot issue NOC just on oral assurance as stated by you as it is matter of Public Money.
>
> 5. That we further wish to make it clear that Bank is not after grabbing your property as falsely stated by you in representation. That earlier also in notice under section 13(2) SARFAESI issued on dated:18th June2021 it was specifically stated that you were to pay whole debt but you did not repay therefore the Bank proceeded under section 13(4) SARFAESI. That all the steps taken are in legal provisions of Law and in due process of Law, therefore Bank cannot withdraw any such notice.
>
> It is again hereby informed again in case you agree to pay whole debt outstanding without sacrificing any public money the

> Bank cannot grant any such permission nor can issue any NOC and that your OTS proposal cannot be considered as of now in its present form."

5. Keeping in view the above, we are of the considered opinion that the present writ petition has been rendered infructuous and is disposed of accordingly. Liberty is given to the petitioner to challenge the said rejection in accordance with law.

(G.S. SANDHAWALIA)
JUDGE

(GURBIR SINGH)
JUDGE

08.05.2023
Naveen

Whether speaking/reasoned :	✓Yes	No
Whether Reportable :	Yes	✓No