IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

2023:PHHC:041245-DB

CWP-23930-2022
Date of Decision: 21.03.2023

Pooja Garg

......Petitioner

Vs.

Central Bank of India and others ....Respondents

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

Present: Mr. Lupil Gupta, Advocate, for the petitioner.

Mr. Parveen Kumar Rohila, Advocate, for respondent No. 1.

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G.S.SANDHAWALIA, J. (ORAL)

1. The present writ petition has been filed for issuing a direction to respondent No. 1-Bank to not encash the security cheques given by the petitioner, not to deduct any EMIs against the home loan and not to charge any interest/penal interest. Direction has also been sought to take a decision on the application dated 26.07.2022 (Annexure P-12), whereby the petitioner has been called for One Time Settlement on 18.07.2022 (Annexure P-11).

2. In the said application dated 26.07.2022 (Annexure P-12), various allegations have been made that the possession of the flat is not being given and the payment has been made to the builder and the matter is pending before the Debt Recovery Tribunal-II, (hereinafter referred to as the Tribunal), Chandigarh.

3. A perusal of the paper-book would further go on to show that the bank had issued a notice under Section 13 (2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest

Act, 2002, for claiming a sum of Rs. 22,36,246.29/- + interest/penal interest w.e.f. 31.10.2021. Apparently, the Bank has also approached the DRT for the outstanding by filing an application under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993, wherein recovery of the amount as such is claimed by holding that a housing loan credit facility was given and therefore, the same has been classified as a non-performing assets on 30.10.2021.

4. In our considered opinion, once the matter is already pending before the Tribunal, it would not be appropriate to open up another front on the same cause of action since the petitioner has already filed his reply before the said Tribunal which is also on record. In the said reply it has also been mentioned that he has also filed a complaint before the Real Estate Regulatory Authority, Punjab, on 31.05.2022.

5. In such circumstances, keeping in view the law laid down by the Surpeme Court in **United Bank of India vs. Satyawati Tandon and others** (2010) 8 SCC 110, we do not find that it is a fit case to exercise on extra ordinary writ jurisdiction.

6. Accordingly, the petition is dismissed with liberty to the petitioner to raise all pleas/objections before the Tribunal.

(G.S. SANDHAWALIA)
JUDGE

March 21, 2023 **(HARPREET KAUR JEEWAN)**
nitin **JUDGE**

Whether Speaking Yes
Whether Reportable No