

125.

2023:PHHC:141911

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

CR-6573-2023

Date of decision: 07.11.2023

BALJINDER KAUR AND ANOTHER

.... Petitioners

Versus

**PRESIDING OFFICER, DEBTS RECOVERY TRIBUNAL II
CHANDIGARH AND ANOTHER**

.... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Vinod Bhardwaj, Advocate, for the petitioners.

GURBIR SINGH, J. (Oral)

1. Prayer in this revision petition filed under Article 227 of the Constitution of India is for setting aside the order dated 04.10.2023 (Annexure P-5) passed by the Presiding Officer, Debts Recovery Tribunal-II, Sector 17, Chandigarh i.e. respondent No.1 in case SA No.182/2023, whereby order to take possession from the petitioners has been passed.

2. Briefly stated, the husband of petitioner No.1 along with her son took a home loan from respondent No.2-DCB Bank Ltd. in the year 2019, amounting to Rs.13,70,000/- repayable in a period of 16 years. Her husband died in the year 2021. Since the petitioners were unable to pay the loan amount, so their loan account was declared as NPA. The Bank issued a notice under Section 13(2) of SARFAESI Act, 2002 for recovery of Rs.12,89,671.99. Thereafter, the District Magistrate, Ambala issued a notice

on 21.07.2023 for taking physical possession of the mortgaged property of the petitioners, which notice was received by the petitioner on the mobile on 24.08.2023 i.e. after a period of more than one month. Against the said action of the respondent No.2-Bank, the petitioners filed Securitization Application (SA) before respondent No.1. Notice was issued to respondent No.2 for 21.09.2023, on which date, Legal Manager on behalf of respondent-Bank appeared and the case was adjourned to 04.10.2023 for exploring the possibility of settlement. On 04.10.2023, the impugned order was passed, which reads as under:-

“It was stated that copy of the reply to SA was received yesterday only and thus, replication could not be filed. Replication be filed.

Possession may be taken by the secured creditor but with regard to the same at least 7 days notices be served upon the applicant as well as counsel for the applicant on WhatsApp/e-mail.

To come up on 16.01.2024 for arguments. Replication be filed within 4 weeks.”

3. Learned counsel for the petitioners submits that the petitioners filed SA before the DRT-II, Chandigarh, in which specific prayer was made for grant of interim injunction. Though no order regarding interim injunction was passed, but the respondent-Bank is calling the petitioners on their mobile and forcing them to hand over the possession of their residential house.
4. Learned counsel for the petitioners further submits that the petitioners would be satisfied if their prayer for interim injunction is disposed of in a time bound manner and till then, dispossession be stayed.
5. Keeping in view that the petitioners have sought interim relief in the SA and no order to decline the interim relief has been passed, so learned

Tribunal is asked to pass a speaking order on the prayer for interim relief made by the petitioners expeditiously but not later than one month of the receipt of the copy of this order and till then, status quo regarding possession be maintained.

6. Petition stands disposed of accordingly.

(GURBIR SINGH)
JUDGE

November 7, 2023

sanjeev

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No