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

113 ***2023:PHHC:046883-DB***

CWP No. 30223 of 2022
Date of Decision: 29.03.2023

Ajmer Singh and another .....Petitioner(s)

Versus

Union Bank of India and others ....Respondent(s)

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

Present: Mr. Sunil Garg, Advocate,
for the petitioners.

Mr. Akaant Kumar Mittal, Advocate,
for the respondent-Bank.

G.S.SANDHAWALIA, J. (Oral)

Challenge in the present writ petition filed under Article 226 of the Constitution of India is to the sale certificate regarding 32 kanals and 1 marla of land, which was sold for Rs.1,08,87,000/- on 27.03.2020 (Annexure P-7) in favour of respondent No.5-Poonam Rani. Vide sale certificate dated 01.09.2022 (Annexure P-8), the said purchaser has also been given the delivery and possession of the scheduled property, which is stated to be free from all incumbrances. The sale deed has also been entered into in favour of the said respondent on 07.10.2022 (Annexure P-9).

Counsel for the petitioners has been able to point out that on an earlier occasion, an application was filed under Section 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, in which the petitioners were arrayed as defendant Nos.6 and 4, respectively and a sum of Rs.3,16,24,011/- was held to be the entitlement of the Bank alongwith interest. It is submitted that the property was put to sale at a reserve price of

Rs.2,15,63,000/- as per the order dated 12.12.2019 (Annexure P-3) issued by the Recovery Officer, DRT-II, Chandigarh. Reference is also made to several orders passed by the Recovery Officer of the Tribunal as to how the auction had failed. It is in such circumstances argued that the sale now by resorting to the provisions of The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest, Act, 2002 (in short 'the 2002 Act') at a price below the reserve price is not justified and, thus, sought to be challenged. Counsel for the petitioners has further submitted that he is willing to get a buyer for Rs.3,50,00,000/- for the said property.

Keeping in view the above, we are of the considered opinion that since the matter is already also pending before the Tribunal in the form of execution and in view of Section 17 of the 2002 Act, there is an alternative remedy as such provided to challenge the procedure and the illegalities in the sale. Thus, it would be appropriate to relegate the petitioner to the Tribunal so that the matters can be thrashed out regarding how recourse had been taken to a different set of proceedings once the bank had already resorted to fixing the reserve price in the recovery certificate and the valuation thereafter has been reduced. It is further pointed out that the sale was done on 27.03.2020 when Covid-19 pandemic had just erupted on the global scale.

In such circumstances, we are of the considered opinion that if an application is filed within a period of 4 weeks from today, the Tribunal will hear the same on merits keeping in view the fact that the petitioners had approached this Court immediately after the sale certificates had been issued and sale deed had been executed.

Accordingly, the petition stands dismissed with the aforesaid liberty.

(G.S. SANDHAWALIA)
JUDGE

29.03.2023 (HARPREET KAUR JEEWAN)
shivani JUDGE

Whether reasoned/speaking Yes
Whether reportable No