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

CRM-M-11878-2023(O&M)
Date of Decision:- 06.08.2024

M/s Kotak Mahindra Bank

....Petitioner

Vs.

State of Punjab and Ors.

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Akshay Jindal, Advocate for petitioner.

Mr. Amandeep Singh, DAG, Punjab.

Mr. Sukhandeep Singh, Advocate for respondents No.3 to 5.

Mr. Vaibhav Sehgal, Advocate for respondents No.6 & 7.

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<u>AMARJOT BHATTI, J.</u>

1. M/s Kotak Mahindra Bank through authorized representative Shri Neeraj Kumar has filed petition under Section 482 Cr.P.C. for directing official respondents to take appropriate action on representation of petitioner dated 14.07.2022 (Annexure P-9) submitted against private respondents.

2. Learned counsel for petitioner pointed out that respondents No.3 to 5 approached M/s Citi Finance Consumer Finance India Ltd. for grant of credit facility in the year 2008. Loan was advance and respondents No.3 to 5 credited equitable mortgage of immovable property Plot No. C-2315, Ajnala Road, Illaqa Vikas Scheme, Ranjit Avenue, Amritsar.

Respondents No.3 to 5 again approached Citi Finance for additional top up loan for Rs.20,00,000/- and in this regard consolidated Home Equity Agreement was executed. Said agreement dated 30.03.2010 is Annexure P-1. On committing default in repayment of loan of respondent No.3 to 5, they were declared Non Performing Asset (NPA) on 31.01.2011 by Citi Finance. The loan of respondents No.3 to 5 was assigned to petitioner bank vide assignment deed dated 18.07.2012 (Annexure P-2). Petitioner bank initiated proceedings under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the SARFAESI Act). Respondents No.3 challenged the proceedings by filing SA No.213 of 2014 before learned Debt Recovery Tribunal -I (DRT), Chandigarh which remained pending for 09 years and was finally dismissed vide order dated 07.06.2022. Petitioner bank filed application under Section 14 of SARFAESI Act which was allowed and process was initiated for taking physical possession of the said property. It came to their knowledge that respondents No.3 to 5 in connivance with respondents No.6 to 8 sold the mortgaged property to misappropriate the amount raised by way of loan. The officials of Improvement Trust, Amritsar- respondent No.8 had issued NOCs at the time of taking loan/top up loan dated 11.01.2008 and 31.01.2010 (Annexure P-4 and P-5 respectively). Lien against mortgaged property was duly informed to Improvement Trust, Amritsar vide letters Annexure P-6 and P-7. Despite this the mortgaged property was allowed to be sold with the connivance of officials of Improvement Trust, Amritsar.

3. The property was initially transferred by respondent No.3 in

favour of her son (respondent No.4-Kanwar Dalip Singh Baweja) vide transfer deed dated 21.06.2019 who further sold it to respondents No.6 & 7 vide sale deed dated 10.07.2019. All private respondents hatched a criminal conspiracy to misappropriate the loan advanced by Citi Finance later assigned to the present petitioner. On the basis of concocted version of respondents No.6 & 7, FIR No.170 dated 10.09.2022 has been registered under Section 420, 120-B of IPC, at Police Station Ranjit Avenue, District Police Commissionerate, Amritsar (Annexure P-8). No FIR has been registered on the complaint of petitioner. As a result present petition has been filed.

4. In the case in hand, status report was called for. As per the said status report, it is claimed that officers of petitioner bank were joined and their statements were recorded. However, FIR No.170 dated 10.09.2022, under Sections 420, 120-B of IPC has been registered at Police Station Ranjit Avenue, District Police Commissionerate, Amritsar on the complaint of Kanwaljit Singh Chawla-respondent No.6. It is further alleged that after completion of investigation, challan has been presented before the Court of competent jurisdiction. The authorized officer of petitioner bank has been arrayed as one of the prosecution witness. Therefore, no further action is required.

5. Arguments were advanced for a considerable time period and thereafter, in view of the aforesaid status report, learned counsel for petitioner stated that he does not want to pursue the present petition and withdraws the same with liberty to seek legal remedy as per the provisions of Cr.P.C.

6. In view of the statement, present petition stands dismissed as withdrawn with aforesaid liberty.

7. Pending miscellaneous application(s), if any, stand disposed of accordingly.

(AMARJOT BHATTI)
JUDGE

06.08.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No