(2018) 10 P&H CK 0321

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 12268 Of 2018

Radha APPELLANT

Vs

Sarva Haryana Gramin Bank, Hodal Through Its Manager RESPONDENT

Date of Decision : 22-10-2018

Acts Referred:

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 — Section 13(4)

Citation : (2018) 10 P&H CK 0321

Hon'ble Judges : Ajay Kumar Mittal, J;Avneesh Jhingan, J

Bench : Division Bench

Advocate : Vishal Thakur, Keshav Pratap Singh, Ravindra Jain, Sunil Gupta

Final Decision : Disposed off

Judgement

1. The present writ petition has been filed seeking quashing of notice dated 14.11.2017, issued under Section 13(4) of the Securitisation and

Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act').

2. The petitioner is a widow of borrower of loan. Sarva Haryana Gramin Bank has been arrayed as respondent in this writ petition.

3. The husband of the petitioner took a housing loan of Rs.10,00,000/-on 24.04.2010 from the respondent-Bank, which was to be repaid in Equal

Monthly Installments (EMIs) of Rs.12,867/- each. He also availed a car loan of Rs.2,50,000/-. In order to secure the credit facilities availed, the

husband of petitioner mortgaged the following property:

â??House property constructed 140 sq. yards which falls in Rect. No. 290, Killa No. 8 (7-7) to the extent of 5/147 share i.e. 5 marlas situated within

the revenue estate of Dharam Patti Hodal, now situated within the limits of M.C.

Hodal, Tehsil and District Palwal.â??

4. The husband of the petitioner died on 16.03.2012. The petitioner has three minor children and works as an Anganwari worker. Due to the death of

her husband, there was default in repayment of loan. Consequently, respondent-Bank initiated recovery proceedings and issued notice under Section

13(4) of the Act on 14.11.2017. As per the notice, there was an outstanding amount of Rs.15,69,659/-. Aggrieved of the recovery proceedings initiated

under the Act, the present petition has been filed.

5. On 15.05.2018, learned counsel for the petitioner contended that in spite of her poor financial position, she is ready and willing to pay Rs.5,00,000/-

within one month from that day and would pay the balance amount in installments. Notice of motion was issued and subject to petitioner's depositing

Rs.5,00,000/- on or before 30.06.2018, status-quo regarding the mortgaged and hypothecated property was ordered to be maintained.

6. Heard learned counsel for the parties.

7. During the pendency of instant writ petition, the receipt of deposit of Rs.5,00,000/- in terms of order dated 15.05.2018 was produced. Learned

counsel for the petitioner contended that petitioner is ready and willing to clear the outstanding dues in easy installments, as she is not in a position to

repay the entire amount immediately.

8. Learned counsel for the respondent-Bank submitted that the petitioner has not approached the respondent-Bank with any proposal for settling the

account.

9. Keeping in view the facts and circumstances of the case, particularly that the petitioner is a widow working as an Anganwari Worker and has three

minor children to look after whereas the loans were availed by her husband, the writ petition is disposed of with the following directions:

(i) The petitioner shall approach the respondent-Bank within one month from today with a proposal and time schedule for repayment of loan.

Alongwith the proposal, petitioner shall deposit a demand draft of Rs.2,00,000/-.

(ii) The respondent-Bank on receipt of proposal shall decide the same sympathetically, after affording an opportunity of hearing to the petitioner by

passing a speaking order. The decision on the proposal shall be taken at the earliest but not later than one month from the receipt of proposal;

(iii) At the time of issuance of notice of motion status-quo regarding the mortgaged and hypothecated property was ordered to be maintained. The said

interim protection shall continue till the decision is taken by respondent-Bank on the proposal submitted by the petitioner;

(iv) However, it is clarified that extension of interim protection shall not be construed as an expression of opinion on the merits of the case by this

Court.